



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 229

[Docket No. 220412-0093]

RIN 0648-BK40

List of Fisheries for 2022

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: The National Marine Fisheries Service (NMFS) publishes its final List of Fisheries (LOF) for 2022, as required by the Marine Mammal Protection Act (MMPA). The LOF for 2022 reflects new information on interactions between commercial fisheries and marine mammals. NMFS must classify each commercial fishery on the LOF into one of three categories under the MMPA based upon the level of mortality and serious injury of marine mammals that occurs incidental to each fishery. The classification of a fishery on the LOF determines whether participants in that fishery are subject to certain provisions of the MMPA, such as registration, observer coverage, and take reduction plan (TRP) requirements.

DATES: The effective date of this final rule is [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Chief, Marine Mammal and Sea Turtle Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Jaclyn Taylor, Office of Protected Resources, 301-427-8402; Allison Rosner, Greater Atlantic Region, 978-281-9328; Jessica Powell, Southeast Region, 727-824-5312; Dan Lawson, West Coast Region, 206-

526-4740; Suzie Teerlink, Alaska Region, 907-586-7240; Diana Kramer, Pacific Islands Region, 808-725-5167. Individuals who use a telecommunications device for the hearing impaired may call the Federal Information Relay Service at 1-800-877-8339 between 8 a.m. and 4 p.m. Eastern time, Monday through Friday, excluding Federal holidays.

SUPPLEMENTARY INFORMATION:

What is the List of Fisheries?

Section 118 of the MMPA requires NMFS to place all U.S. commercial fisheries into one of three categories based on the level of incidental mortality and serious injury of marine mammals occurring in each fishery (16 U.S.C. 1387(c)(1)). The classification of a fishery on the LOF determines whether participants in that fishery may be required to comply with certain provisions of the MMPA, such as registration, observer coverage, and take reduction plan requirements. NMFS must reexamine the LOF annually, considering new information in the Marine Mammal Stock Assessment Reports (SARs) and other relevant sources, and publish in the **Federal Register** any necessary changes to the LOF after notice and opportunity for public comment (16 U.S.C. 1387 (c)(1)(C)).

How does NMFS determine in which category a fishery is placed?

The definitions for the fishery classification criteria can be found in the implementing regulations for section 118 of the MMPA (50 CFR 229.2). The criteria are also summarized here.

Fishery Classification Criteria

The fishery classification criteria consist of a two-tiered, stock-specific approach that first addresses the total impact of all fisheries on each marine mammal stock and then addresses the impact of individual fisheries on each stock. This approach is based on consideration of the rate, in numbers of animals per year, of incidental mortalities and serious injuries of marine mammals due to commercial fishing operations relative to the potential biological removal (PBR) level for each marine mammal stock. The MMPA (16

U.S.C. 1362 (20)) defines the PBR level as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population. This definition can also be found in the implementing regulations for section 118 of the MMPA (50 CFR 229.2).

Tier 1: Tier 1 considers the cumulative fishery mortality and serious injury for a particular stock. If the total annual mortality and serious injury of a marine mammal stock, across all fisheries, is less than or equal to 10 percent of the PBR level of the stock, all fisheries interacting with the stock will be placed in Category III (unless those fisheries interact with other stock(s) for which total annual mortality and serious injury is greater than 10 percent of PBR). Otherwise, these fisheries are subject to the next tier (Tier 2) of analysis to determine their classification.

Tier 2: Tier 2 considers fishery-specific mortality and serious injury for a particular stock.

Category I: Annual mortality and serious injury of a stock in a given fishery is greater than or equal to 50 percent of the PBR level (*i.e.*, frequent incidental mortality and serious injury of marine mammals).

Category II: Annual mortality and serious injury of a stock in a given fishery is greater than 1 percent and less than 50 percent of the PBR level (*i.e.*, occasional incidental mortality and serious injury of marine mammals).

Category III: Annual mortality and serious injury of a stock in a given fishery is less than or equal to 1 percent of the PBR level (*i.e.*, a remote likelihood of or no known incidental mortality and serious injury of marine mammals).

Additional details regarding how the categories were determined are provided in the preamble to the final rule implementing section 118 of the MMPA (60 FR 45086; August 30, 1995).

Because fisheries are classified on a per-stock basis, a fishery may qualify as one category for one marine mammal stock and another category for a different marine mammal stock. A fishery is typically classified on the LOF at its highest level of classification (*e.g.*, a fishery qualifying for Category III for one marine mammal stock and for Category II for another marine mammal stock will be listed under Category II). Stocks driving a fishery's classification are denoted with a superscript "1" in Tables 1 and 2.

Other Criteria That May Be Considered

The tier analysis requires a minimum amount of data, and NMFS does not have sufficient data to perform a tier analysis on certain fisheries. Therefore, NMFS has classified certain fisheries by analogy to other fisheries that use similar fishing techniques or gear that are known to cause mortality or serious injury of marine mammals, or according to factors discussed in the final LOF for 1996 (60 FR 67063; December 28, 1995) and listed in the regulatory definition of a Category II fishery. In the absence of reliable information indicating the frequency of incidental mortality and serious injury of marine mammals by a commercial fishery, NMFS will determine whether the incidental mortality or serious injury is "occasional" by evaluating other factors such as fishing techniques, gear used, methods used to deter marine mammals, target species, seasons and areas fished, qualitative data from logbooks or fishermen reports, stranding data, and the species and distribution of marine mammals in the area, or at the discretion of the Assistant Administrator for Fisheries (50 CFR 229.2).

Further, eligible commercial fisheries not specifically identified on the LOF are deemed to be Category II fisheries until the next LOF is published (50 CFR 229.2).

How does NMFS determine which species or stocks are included as incidentally killed or injured in a fishery?

The LOF includes a list of marine mammal species and/or stocks incidentally killed or injured in each commercial fishery. The list of species and/or stocks incidentally killed or injured includes “serious” and “non-serious” documented injuries as described later in the *List of Species and/or Stocks Incidentally Killed or Injured in the Pacific Ocean* and *List of Species and/or Stocks Incidentally Killed or Injured in the Atlantic Ocean, Gulf of Mexico, and Caribbean* sections. To determine which species or stocks are included as incidentally killed or injured in a fishery, NMFS annually reviews the information presented in the current SARs and injury determination reports. SARs are brief reports summarizing the status of each stock of marine mammals occurring in waters under U.S. jurisdiction, including information on the identity and geographic range of the stock, population statistics related to abundance, trend, and annual productivity, notable habitat concerns, and estimates of human-caused mortality and serious injury (M/SI) by source. The SARs are based upon the best available scientific information and provide the most current and inclusive information on each stock’s PBR level and level of interaction with commercial fishing operations. The best available scientific information used in the SARs and reviewed for the 2022 LOF generally summarizes data from 2014-2018. NMFS also reviews other sources of new information, including injury determination reports, bycatch estimation reports, observer data, logbook data, stranding data, disentanglement network data, fishermen self-reports (*i.e.*, MMPA mortality/injury reports), and anecdotal reports from that time period. In some cases, more recent information may be available and used in the LOF.

For fisheries with observer coverage, species or stocks are generally removed from the list of marine mammal species and/or stocks incidentally killed or injured if no interactions are documented in the 5-year timeframe summarized in that year’s LOF. For fisheries with no observer coverage and for observed fisheries with evidence indicating that undocumented interactions may be occurring (*e.g.*, fishery has low observer coverage

and stranding network data include evidence of fisheries interactions that cannot be attributed to a specific fishery) species and stocks may be retained for longer than 5 years. For these fisheries, NMFS will review the other sources of information listed above and use its discretion to decide when it is appropriate to remove a species or stock.

Where does NMFS obtain information on the level of observer coverage in a fishery on the LOF?

The best available information on the level of observer coverage and the spatial and temporal distribution of observed marine mammal interactions is presented in the SARs. Data obtained from the observer program and observer coverage levels are important tools in estimating the level of marine mammal mortality and serious injury in commercial fishing operations. Starting with the 2005 SARs, each Pacific and Alaska SAR includes an appendix with detailed descriptions of each Category I and II fishery on the LOF, including the observer coverage in those fisheries. For Atlantic fisheries, this information can be found in the LOF Fishery Fact Sheets. The SARs do not provide detailed information on observer coverage in Category III fisheries because, under the MMPA, Category III fisheries are not required to accommodate observers aboard vessels due to the remote likelihood of mortality and serious injury of marine mammals. Fishery information presented in the SARs' appendices and other resources referenced during the tier analysis may include: level of observer coverage; target species; levels of fishing effort; spatial and temporal distribution of fishing effort; characteristics of fishing gear and operations; management and regulations; and interactions with marine mammals. Copies of the SARs are available on the NMFS Office of Protected Resources website at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessment-reports-region>. Information on observer coverage levels in Category I, II, and III fisheries can be found in the fishery fact sheets on the NMFS Office of Protected Resources' website: <https://www.fisheries.noaa.gov/national/marine-mammal->

protection/list-fisheries-summary-tables. Additional information on observer programs in commercial fisheries can be found on the NMFS National Observer Program's website: <https://www.fisheries.noaa.gov/national/fisheries-observers/national-observer-program>.

How do I find out if a specific fishery is in Category I, II, or III?

The LOF includes three tables that list all U.S. commercial fisheries by Category. Table 1 lists all of the commercial fisheries in the Pacific Ocean (including Alaska); Table 2 lists all of the commercial fisheries in the Atlantic Ocean, Gulf of Mexico, and Caribbean; and Table 3 lists all U.S. authorized commercial fisheries on the high seas. A fourth table, Table 4, lists all commercial fisheries managed under applicable TRPs or take reduction teams (TRT).

Are high seas fisheries included on the LOF?

Beginning with the 2009 LOF, NMFS includes high seas fisheries in Table 3 of the LOF, along with the number of valid High Seas Fishing Compliance Act (HSFCA) permits in each fishery. As of 2004, NMFS issues HSFCA permits only for high seas fisheries analyzed in accordance with the National Environmental Policy Act (NEPA) and the Endangered Species Act (ESA). The authorized high seas fisheries are broad in scope and encompass multiple specific fisheries identified by gear type. For the purposes of the LOF, the high seas fisheries are subdivided based on gear type (*e.g.*, trawl, longline, purse seine, gillnet, troll, etc.) to provide more detail on composition of effort within these fisheries. Many fisheries operate in both U.S. waters and on the high seas, creating some overlap between the fisheries listed in Tables 1 and 2 and those in Table 3. In these cases, the high seas component of the fishery is not considered a separate fishery, but an extension of a fishery operating within U.S. waters (listed in Table 1 or 2). NMFS designates those fisheries in Tables 1, 2, and 3 with an asterisk (*) after the fishery's name. The number of HSFCA permits listed in Table 3 for the high seas components of these fisheries operating in U.S. waters does not necessarily represent additional effort

that is not accounted for in Tables 1 and 2. Many vessels/participants holding HSFCA permits also fish within U.S. waters and are included in the number of vessels and participants operating within those fisheries in Tables 1 and 2.

HSFCA permits are valid for 5 years, during which time Fishery Management Plans (FMPs) can change. Therefore, some vessels/participants may possess valid HSFCA permits without the ability to fish under the permit because it was issued for a gear type that is no longer authorized under the most current FMP. For this reason, the number of HSFCA permits displayed in Table 3 is likely higher than the actual U.S. fishing effort on the high seas. For more information on how NMFS classifies high seas fisheries on the LOF, see the preamble text in the final 2009 LOF (73 FR 73032; December 1, 2008). Additional information about HSFCA permits can be found at <https://www.fisheries.noaa.gov/permit/high-seas-fishing-permits>.

Where can I find specific information on fisheries listed on the LOF?

Starting with the 2010 LOF, NMFS developed summary documents, or fishery fact sheets, for each Category I and II fishery on the LOF. These fishery fact sheets provide the full history of each Category I and II fishery, including: when the fishery was added to the LOF; the basis for the fishery's initial classification; classification changes to the fishery; changes to the list of species and/or stocks incidentally killed or injured in the fishery; fishery gear and methods used; observer coverage levels; fishery management and regulation; and applicable TRPs or TRTs, if any. These fishery fact sheets are updated after each final LOF and can be found under "How Do I Find Out if a Specific Fishery is in Category I, II, or III?" on the NMFS Office of Protected Resources' website: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-protection-act-list-fisheries>, linked to the "List of Fisheries Summary" table. NMFS is developing similar fishery fact sheets for each Category III fishery on the LOF. However, due to the large number of Category III fisheries on the LOF and the lack of

accessible and detailed information on many of these fisheries, the development of these fishery fact sheets is taking significant time to complete. NMFS began posting Category III fishery fact sheets online with the LOF for 2016.

Am I required to register under the MMPA?

Owners of vessels or gear engaging in a Category I or II fishery are required under the MMPA (16 U.S.C. 1387(c)(2)), as described in 50 CFR 229.4, to register with NMFS and obtain a marine mammal authorization to lawfully take non-endangered and non-threatened marine mammals incidental to commercial fishing operations. Owners of vessels or gear engaged in a Category III fishery are not required to register with NMFS or obtain a marine mammal authorization.

How do I register, renew and receive my Marine Mammal Authorization Program authorization certificate?

NMFS has integrated the MMPA registration process, implemented through the Marine Mammal Authorization Program (MMAP), with existing state and Federal fishery license, registration, or permit systems for Category I and II fisheries on the LOF. Participants in these fisheries are automatically registered under the MMAP and are not required to submit registration or renewal materials.

In the Pacific Islands, West Coast, and Alaska regions, NMFS will issue vessel or gear owners an authorization certificate via U.S. mail or with their state or Federal license or permit at the time of issuance or renewal. In the Greater Atlantic and Southeast Regions, NMFS will issue vessel or gear owners an authorization certificate via U.S. mail automatically at the beginning of each calendar year.

Vessel or gear owners who participate in fisheries in these regions and have not received authorization certificates by the beginning of the calendar year, or with renewed fishing licenses, must contact the appropriate NMFS Regional Office (see **FOR FURTHER INFORMATION CONTACT**). Authorization certificates may also be

obtained by visiting the MMAP website <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-authorization-program#obtaining-a-marine-mammal-authorization-certificate>.

The authorization certificate, or a copy, must be on board the vessel while it is operating in a Category I or II fishery, or for non-vessel fisheries, in the possession of the person in charge of the fishing operation (50 CFR 229.4(e)). Although efforts are made to limit the issuance of authorization certificates to only those vessel or gear owners that participate in Category I or II fisheries, not all state and Federal license or permit systems distinguish between fisheries as classified by the LOF. Therefore, some vessel or gear owners in Category III fisheries may receive authorization certificates even though they are not required for Category III fisheries.

Individuals fishing in Category I and II fisheries for which no state or Federal license or permit is required must register with NMFS by contacting their appropriate Regional Office (see **ADDRESSES**).

In recognition of logistical challenges with certificate issuance related to the ongoing COVID-19 pandemic, the MMAP certificate issued in 2020 remains in effect, valid through December 31, 2022, for vessel or gear owners participating in all Category I and II fisheries as of the final 2022 LOF. 2020 certificates may be retained or replacements downloaded from <https://go.usa.gov/xArUW>.

Am I required to submit reports when I kill or injure a marine mammal during the course of commercial fishing operations?

In accordance with the MMPA (16 U.S.C. 1387(e)) and 50 CFR 229.6, any vessel owner or operator, or gear owner or operator (in the case of non-vessel fisheries), participating in a fishery listed on the LOF must report to NMFS all incidental mortalities and injuries of marine mammals that occur during commercial fishing operations, regardless of the category in which the fishery is placed (I, II, or III) within 48 hours of

the end of the fishing trip or, in the case of non-vessel fisheries, fishing activity. “Injury” is defined in 50 CFR 229.2 as a wound or other physical harm. In addition, any animal that ingests fishing gear or any animal that is released with fishing gear entangling, trailing, or perforating any part of the body is considered injured, regardless of the presence of any wound or other evidence of injury, and must be reported.

Mortality/injury reporting forms and instructions for submitting forms to NMFS can be found at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-authorization-program#reporting-a-death-or-injury-of-a-marine-mammal-during-commercial-fishing-operations> or by contacting the appropriate regional office (see **FOR FURTHER INFORMATION CONTACT**). Forms may be submitted via any of the following means: (1) online using the electronic form; (2) emailed as an attachment to nmfs.mireport@noaa.gov; (3) faxed to the NMFS Office of Protected Resources at 301-713-0376; or (4) mailed to the NMFS Office of Protected Resources (mailing address is provided on the postage-paid form that can be printed from the web address listed above). Reporting requirements and procedures are found in 50 CFR 229.6.

Am I required to take an observer aboard my vessel?

Individuals participating in a Category I or II fishery are required to accommodate an observer aboard their vessel(s) upon request from NMFS. MMPA section 118 states that the Secretary is not required to place an observer on a vessel if the facilities for quartering an observer or performing observer functions are so inadequate or unsafe that the health or safety of the observer or the safe operation of the vessel would be jeopardized; thereby authorizing the exemption of vessels too small to safely accommodate an observer from this requirement. However, U.S. Atlantic Ocean, Caribbean, or Gulf of Mexico large pelagics longline vessels operating in special areas designated by the Pelagic Longline Take Reduction Plan implementing regulations (50

CFR 229.36(d)) will not be exempted from observer requirements, regardless of their size. Observer requirements are found in 50 CFR 229.7.

Am I required to comply with any marine mammal TRP regulations?

Table 4 provides a list of fisheries affected by TRPs and TRTs. TRP regulations are found at 50 CFR 229.30 through 229.37. A description of each TRT and copies of each TRP can be found at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-take-reduction-plans-and-teams>. It is the responsibility of fishery participants to comply with applicable take reduction regulations.

Where can I find more information about the LOF and the MMAP?

Information regarding the LOF and the MMAP, including registration procedures and forms; current and past LOFs; descriptions of each Category I and II fishery and some Category III fisheries; observer requirements; and marine mammal mortality/injury reporting forms and submittal procedures; may be obtained at:

<https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-protection-act-list-fisheries>, or from any NMFS Regional Office at the addresses listed below:

NMFS, Greater Atlantic Regional Fisheries Office, 55 Great Republic Drive,
Gloucester, MA 01930-2298, Attn: Allison Rosner;

NMFS, Southeast Region, 263 13th Avenue South, St. Petersburg, FL 33701,
Attn: Jessica Powell;

NMFS, West Coast Region, Long Beach Office, 501 W. Ocean Blvd., Suite 4200,
Long Beach, CA 90802-4213, Attn: Dan Lawson;

NMFS, Alaska Region, Protected Resources, P.O. Box 22668, 709 West 9th
Street, Juneau, AK 99802, Attn: Suzie Teerlink; or

NMFS, Pacific Islands Regional Office, Protected Resources Division, 1845
Wasp Blvd., Building 176, Honolulu, HI 96818, Attn: Diana Kramer.

Sources of Information Reviewed for the 2022 LOF

NMFS reviewed the marine mammal incidental mortality and serious injury information presented in the SARs for all fisheries to determine whether changes in fishery classification are warranted. The SARs are based on the best scientific information available at the time of preparation, including the level of mortality and serious injury of marine mammals that occurs incidental to commercial fishery operations and the PBR levels of marine mammal stocks. The information contained in the SARs is reviewed by regional Scientific Review Groups (SRGs) representing Alaska, the Pacific (including Hawaii), and the U.S. Atlantic, Gulf of Mexico, and Caribbean. The SRGs were established by the MMPA to review the science that informs the SARs, and to advise NMFS on marine mammal population status, trends, and stock structure, uncertainties in the science, research needs, and other issues.

NMFS also reviewed other sources of new information, including marine mammal stranding and entanglement data, observer program data, fishermen self-reports, reports to the SRGs, conference papers, FMPs, and ESA documents.

The LOF for 2022 was based on, among other things, stranding data; fishermen self-reports; and SARs, primarily the 2020 SARs, which are based on data from 2014-2018. The SARs referenced in this LOF include: 2018 (84 FR 28489; June 19, 2019), 2019 (84 FR 65353; November 27, 2019), and 2020 (86 FR 38991; July 23, 2021). The SARs are available at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessment-reports-region>.

Comments and Responses

NMFS received eight comment letters on the proposed LOF for 2022 (86 FR 43491; August 9, 2021). Comments were received from a member of the public; Center for Biological Diversity (CBD); Maine Department of Marine Resources (ME DMR), Maine Lobstermen's Association (MLA); Marine Mammal Commission (Commission);

Massachusetts Lobstermen's Association; New England Aquarium; and a joint letter from Conservation Law Foundation, CBD, Defenders of Wildlife, and Whale and Dolphin Conservation (CLF et al.). Responses to substantive comments are below. Comments on actions not related to the LOF are not included.

General Comments

Comment 1: The New England Aquarium recommends NMFS classify aquaculture operations on the LOF by gear, similar to how capture fisheries are included on the LOF. They note that shellfish aquaculture includes a range of operations from seed collection lines to grow-out systems. All aquaculture operations and their associated gear have varying degrees of risk to marine mammals and should be considered separately on the LOF.

Response: NMFS thanks the commenter for providing this information on various aquaculture operations. NMFS will review the information provided and consider it in future LOFs. For fishery classification changes related to aquaculture on the LOF, NMFS would provide notice and the opportunity for public comment.

Comment 2: The New England Aquarium recommends that NMFS classify by analogy aquaculture operations that use gear with static lines in the water. They state that these operations are similar to gear used in fixed-gear fisheries known to result in the M/SI of North Atlantic right whales. They also note that NMFS has classified several fisheries as Category II by analogy that have no documented marine mammal M/SI. Therefore, the New England Aquarium requests NMFS classify aquaculture operations with static lines that are analogous to Category I and II fixed-gear fisheries as Category II fisheries on the LOF.

Response: NMFS has classified fisheries by analogy on the LOF that use similar fishing techniques or gear that are known to cause M/SI of marine mammals. Fishery classification by analogy was discussed in the final LOF for 1996 (60 FR 67063;

December 28, 1995), and the factors for classifying by analogy are listed in the regulatory definition of a “Category II fishery” in 50 CFR 229.2. NMFS will review the information provided by the New England Aquarium and consider it in a future LOF. For fishery classification changes related to aquaculture on the LOF, NMFS would provide notice and the opportunity for public comment.

Comments on Commercial Fisheries in the Pacific Ocean

Comment 3: CBD recommends NMFS reclassify the Category III AK Bering Sea, Aleutian Islands (BSAI) sablefish pot fishery as Category II fishery. They note that NMFS proposed to add the North Pacific stock of sperm whale to the list of species/stocks incidentally killed or injured based on the 2018 observed mortality. PBR for this stock is 0.5, and the annual estimated M/SI for the AK BSAI sablefish pot fishery is 0.2. This fishery should be reclassified as a Category II fishery.

Response: NMFS evaluated the 2018 sperm whale mortality in the Category III AK BSAI sablefish pot fishery and retains the Category III classification for this fishery. The Nmin is for only a small portion of the stock’s range and does not account for females and juveniles in tropical and subtropical waters, so the calculated PBR is not a reliable index for the entire stock.

Furthermore, incidental take of sperm whales in fisheries is generally associated with sperm whales depredating from fishing gear. Depredation occurs less often with pot gear, which has been a major factor in sablefish fishers switching from longline to pot fishing. NMFS will continue to closely monitor the M/SI of this stock in the Category III AK BSAI sablefish pot fishery and other fisheries.

Comment 4: The Commission recommends that NMFS retain several species/stocks on the LOF that were proposed to be removed from the list of species/stocks incidentally killed or injured in fisheries in Tables 1, 2 and 3. They state that list of species/stocks is intended to identify all species and stocks that are known to

have been incidentally killed or injured in a fishery, and data from more than the most recent 5-year time period should be used. The Commission continues to note that the list should not just be limited to species or stocks with observed M/SI, since observers are unable to detect all marine mammal mortalities and injuries. The Commissions recommends NMFS retain on the following species and stocks LOF:

- Five stocks in the Category I HI deep-set longline fishery: (1) pelagic stock of bottlenose dolphin, (2) Hawaii stock of *Kogia* spp., (3) Hawaii stock of pygmy killer whale, (4) Hawaii stock of Risso's dolphin and (5) Hawaii stock of striped dolphin.
- Six stocks in the Category II HI shallow-set longline fishery: (1) Hawaii stock of Blainville's beaked whale, (2) Hawaii pelagic stock of bottlenose dolphin, (3) Central North Pacific stock of humpback whale, (4) Hawaii stock of Risso's dolphin, (5) Hawaii stock of rough-toothed dolphin and (6) Hawaii stock of striped dolphin.
- Six stocks in the Category II AK Bering Sea, Aleutian Islands pollock trawl fishery: (1) Alaska stock of bearded seal, (2), Bristol Bay stock of beluga whale, (3) Eastern Bering Sea stock of beluga whale, (4) Eastern Chukchi Sea stock of beluga whale, (5) Eastern Pacific stock of Northern fur seal and (6) Alaska stock of spotted seal.
- Alaska resident stock of killer whale in the Category III AK Bering Sea, Aleutian Islands Greenland turbot longline fishery.
- Alaska stock of spotted seal in the Category III AK Bering Sea, Aleutian Islands Pacific cod longline fishery.
- Alaska stock of bearded seal in the Category III AK Bering Sea, Aleutian Islands Atka mackerel trawl fishery.

- Both the Gulf of Alaska, Aleutian Islands, Bering Sea transient stock and Eastern North Pacific Alaska resident stock of killer in the Category III AK Bering Sea, Aleutian Islands rockfish trawl fishery.
- North Pacific stock of Northern elephant in the Category III AK Gulf of Alaska flatfish trawl fishery.
- Alaska stock of harbor seal in the Category III AK Gulf of Alaska Pacific cod trawl fishery.
- Three stocks in the Category III AK Gulf of Alaska pollock trawl fishery: (1) Alaska stock of Dall's porpoise, (2) Northeast Pacific stock of fin whale and (3) North Pacific stock of Northern elephant seal.
- Gulf of Alaska stock of harbor seal in the Category III AK Gulf of Alaska Pacific cod pot fishery.
- Northeast Pacific stock of fin whale in the Category III AK Gulf of Alaska groundfish jig fishery.
- Central North Pacific stock of humpback whale and Hawaii stock of pygmy killer whale in the Category I Western Pacific Pelagic longline fishery (HI deep-set component).
- Three stocks in the Category II Western Pacific Pelagic longline fishery (HI shallow-set component): (1) Hawaii stock of Blainville's beaked whale, (2) unknown stock of Mesoplodon species, and (3) Hawaii stock of rough-toothed dolphin.

Response: For fisheries with observer coverage, species or stocks are generally removed from the list of marine mammal species and/or stocks incidentally killed or injured if no mortalities or injuries are documented in the 5-year timeframe summarized in that year's LOF. For fisheries with no observer coverage and for observed fisheries with evidence indicating that undocumented mortalities or injuries may be occurring

(e.g., fishery has low observer coverage and stranding network data include evidence of fisheries interactions that cannot be attributed to a specific fishery) species and stocks may be retained for longer than 5 years. For these fisheries, NMFS reviews the other sources of information to determine when it is appropriate to remove a species or stock.

NMFS disagrees with the Commission's recommendation to retain species/stocks in the Alaska fisheries noted above. All the named Alaska fisheries except for the AK Gulf of Alaska groundfish jig fishery are observed. As proposed in the 2022 LOF (86 FR 43491; August 9, 2021), NMFS removes the species/stocks from the list of species/stocks incidentally killed or injured in each Alaska fishery noted in the above comment by the Commission.

The Hawaii shallow-set and deep-set longline fisheries are observed with 100 percent and 20 percent observer coverage, respectively. Therefore, unless evidence suggested additional M/SI, NMFS removes species with no documented mortality or injuries in the 5-year timeframe considered for the 2022 LOF.

NMFS disagrees with the Commission and removes the following species/stocks from the list of species/stocks incidentally killed or injured in fisheries noted below.

NMFS removes the Hawaii stock of pygmy killer whale from the list of species/stocks incidentally killed or injured in the Category I HI deep-set longline fishery and Category I Western Pacific Pelagic (HI deep-set component) fishery, as no reported or observed mortalities or injuries have occurred since 2013.

NMFS removes the Hawaii stocks of Blainville's beaked whale and rough-toothed dolphin from the list of species/stocks incidentally killed or injured in the Category II HI shallow-set longline fishery and Category II Western Pacific Pelagic (HI shallow-set component) fishery. The shallow-set longline fishery is observed at 100 percent, and there have been no observed M/SI either species since 2011 (Blainville's beaked whale) and 2013 (rough-toothed dolphin).

NMFS also removes the unknown stock of *Mesoplodon* species from the list of species/stocks incidentally killed or injured in the Category II Western Pacific Pelagic (HI shallow-set component) fishery. There have been no observed M/SI of this stock since 2013.

NMFS agrees with the Commission's recommendations and retains the following the species/stocks on the list of species/stocks incidentally killed or injured in fisheries noted below.

NMFS retains the following four stocks on the list of species/stocks incidentally killed or injured in the Category I HI deep-set longline fishery: (1) pelagic stock of bottlenose dolphin, (2) Hawaii stock of *Kogia* spp., (3) Hawaii stock of Risso's dolphin and (4) Hawaii stock of striped dolphin. These stocks are included on the list of species and/or stocks killed or injured in the high seas component (Category I Western Pacific Pelagic (HI deep-set component) fishery) and are retained on Category I HI deep-set longline fishery.

NMFS also retains the Central North Pacific stock of humpback whale on the list of species/stocks incidentally killed or injured in the Category I Western Pacific Pelagic (HI deep-set component) fishery. This stock is included on the list of species and/or stocks killed or injured Category I HI deep-set longline fishery and therefore retained in the high seas component (Category I Western Pacific Pelagic (HI deep-set component) fishery).

NMFS retains four stocks on the list of species/stocks incidentally killed or injured in the Category II HI shallow-set longline fishery: (1) Hawaii pelagic stock of bottlenose dolphin, (2) Central North Pacific stock of humpback whale, (3) Hawaii stock of Risso's dolphin and (4) Hawaii stock of striped dolphin. These stocks are included on the list of species and/or stocks killed or injured in the high seas component (Category II

Western Pacific Pelagic (HI shallow-set component)) fishery and therefore retained on Category II HI shallow-set longline fishery.

Comment 5: The New England Aquarium states that the LOF does not include any marine mammal species/stocks in the list of species/stocks incidentally killed or injured in the Category III Hawaii offshore pen culture fishery. They note the 2020 Hawaiian monk seal SAR reports a mortality in an offshore net pen in 2017. The New England Aquarium recommends NMFS add Hawaiian monk seal to the list of species/stocks incidentally killed or injured in the Category III Hawaii offshore pen culture fishery based on this mortality.

Response: NMFS agrees with the New England Aquarium's comment. The 2020 SAR includes a Hawaiian monk seal mortality in an offshore net pen in 2017 (Carretta *et al.*, 2021). NMFS adds Hawaiian monk seal to the list of species/stocks incidentally killed or injured in the Category III HI offshore pen culture fishery.

Comment 6: CBD recommends that Hawaiian monk seals be added to the list of species/stocks incidentally killed or injured in the following Category III Hawaii nearshore gillnet and hook and line fisheries: (1) HI inshore gillnet, (2) HI lift net, (3) HI inshore purse seine, (4) HI throw net/cast net, (5) HI troll, (6) HI rod and reel, (7) HI kaka line, (8) HI vertical line, (9) HI aku boat, pole and line, (10) HI inshore handline and (11) HI pelagic handline. They note that the 2020 SAR includes an annual estimated average M/SI of 7.2 in Hawaii nearshore fisheries and PBR is 4.8 seals. However, the LOF does not include documented Hawaiian monk seal M/SI in the Hawaii nearshore fisheries.

Response: In the 2020 SAR, although monk seals M/SI are identified from nearshore fishing gear, including hook and line and net fishing gear, this gear has not been identified as commercial fisheries gear. It is unknown as to whether the gear is commercial, recreational, or illegally set gear. In some cases of M/SI from entanglement in fishing nets, the nets were identified or suspected to be illegally set nets, and none have

been specifically identified as commercial fishing nets. Because cases of monk seal M/SI from hookings and entanglements in nearshore fishing gear cannot be attributed to specific commercial nearshore fisheries, Hawaiian monk seals are not included as species incidentally killed or injured in these nearshore fisheries. Hawaiian monk seals have been added to the list of species/stocks incidentally killed or injured in the Category III HI offshore pen culture fishery.

Comment 7: The Commission restates a previous comment, recommending NMFS reclassify the Category III Hawaii troll fishery as a Category II fishery based on documented spotted dolphin hooking and entanglement serious injuries. They note they disagree with NMFS' conclusion to not reclassify the Category III Hawaii troll fishery on the 2021 LOF (86 FR 3028; January 14, 2021). The Commission considers the information presented in Baird and Webster (2020), coupled with anecdotal reports of dolphins being entangled or hooked in gear used in this fishery, to be sufficient to reclassify the fishery. The Commission recommends NMFS reclassify the Category III Hawaii troll fishery as a Category II fishery, based on observations that troll fishermen are intentionally setting hook and line gear in and around groups of spotted dolphins as a means for targeting tuna, resulting in, M/SI occurring at an occasional level. They continue to recommend that if NMFS determines reclassification is not warranted, that NMFS quantify the marine mammal M/SI in the Hawaii troll fishery through a dedicated observer program or alternative monitoring such as electronic monitoring or remote observers.

Response: This comment has been addressed previously (see 86 FR 3028; January 14, 2021). A fishery is classified as Category II when the annual M/SI of a stock in the fishery is greater than 1 percent and less than 50 percent of PBR. For the Hawaii stock complex of pantropical spotted dolphins, as the Commission notes, Baird and Webster 2020 documents troll fishing occurring in and around groups of spotted dolphins,

particularly around Hawaii Island. However, there are no reliable estimates of how frequently this type of troll fishing results in M/SI of spotted dolphins. Baird and Webster 2020 itself notes major data gaps, including abundance estimates of the stocks, and frequency of hookings and entanglements, which need to be addressed to understand whether hooking and/or entanglements occur to the level that warrant reclassification of the fishery.

The most recent SAR (2020) for the Hawaii stock complex of pantropical spotted dolphins notes two cases of observed entanglements of spotted dolphins in fishing line, but the responsible fishery is not known in either case (Carretta *et al.*, 2021). No M/SI estimates are available for pantropical spotted dolphins.

In addition to the SAR, NMFS also considered other sources of data in evaluating the Hawaii troll fishery on the annual LOF. Regardless of classification of a particular fishery, all commercial fishers are required to submit reports of any marine mammal mortality or injury incidental to fishing operations through the marine mammal authorization program mortality/injury reporting form. NMFS has received no reports through this program of pantropical spotted dolphins injured or killed in the Hawaii troll fishery. However, recognizing that self-reporting may be limited, NMFS also considered other sources of information. Baird 2016 discusses propeller injuries of spotted dolphins, but the level and type of vessel causing such injuries are not known. Baird 2016 also presents photos of at least one spotted dolphin hooked with trailing fishing line, but the fishery and frequency of such hookings and/or entanglements are unknown.

The Hawaii troll fishery is a state-managed fishery, and NMFS has encouraged the State of Hawaii to implement additional commercial fishing reporting and monitoring mechanisms for state-managed fisheries. In addition, NMFS will consider the Commission's recommendation to pursue quantitative means to evaluate mortality and serious injury of pantropical spotted dolphins.

The information does not provide sufficient evidence to conclude that spotted dolphins are being seriously injured or killed on an “occasional basis” as necessary for a Category II fishery classification. Therefore, NMFS retains the Category III classification of the Hawaii troll fishery.

Comment 8: CBD recommends that the newly proposed Category III WA/OR/CA other groundfish pot fishery be classified as a Category II fishery. CBD states that the fishing gear used by the newly proposed fishery is known to entangle humpback whales in Alaska, Washington, Oregon and California. CBD notes the proposed 2022 LOF states there has been no marine mammal M/SI incidental to the newly proposed fishery. However, there have been humpback whales entangled in the West Coast groundfish fishery from 2002 to 2019. CBD recommends NMFS classify the newly proposed WA/OR/CA other groundfish pot fishery as a Category II fishery based on the same frequency of M/SI as the Category II WA/OR/CA sablefish pot fishery.

Response: NMFS thanks CBD for the comment and does not finalize adding the proposed Category III WA/OR/CA other groundfish pot fishery on the 2022 LOF. In the 2022 LOF (86 FR 43491; August 9, 2021), NMFS proposed adding the WA/OR/CA other groundfish pot fishery as a new Category III fishery. As proposed, the new Category III fishery would include pot fishing effort from the previously named Category III CA nearshore finfish live trap/hook-and-line fishery (state fisheries) and other groundfish pot fishing effort (federal fisheries separate from the sablefish pot fishery). NMFS retains the previously named Category III CA nearshore finfish trap fishery.

For the 2022 LOF, NMFS reviewed fishery data for all West Coast fisheries including data from PacFIN. The data used in the analysis for proposing the new WA/OR/CA other groundfish pot fishery included the total landings of groundfish species in pot gear along the West Coast. These data indicated that there were landings of groundfish species other than sablefish with pot gear that were not associated with

landings of sablefish. However, the data did not identify the fishing effort that led to these landings (*e.g.* whether the effort was occurring within State nearshore fisheries, within federal fisheries, or what species were targeted versus which species are incidentally caught). Because the Pacific Coast Groundfish Fishery Management Plan and associated regulations allow the targeting and landing of species other than sablefish, in drafting the proposed 2022 LOF, NMFS conservatively assumed at least some of the non-sablefish landings could be effort occurring outside the state nearshore fisheries and could be effort directly targeted groundfish species other than sablefish.

Following publication of the proposed 2022 LOF, NMFS further analyzed the data that were used to support the proposed WA/OR/CA other groundfish pot fishery. After discussions with federal fishery managers and scientists, NMFS identified that the analysis in the proposed 2022 LOF incorrectly stated that there are federal pot gear fisheries targeting groundfish species other than sablefish. All pot gear fishing effort in the West Coast federal groundfish fisheries is targeting sablefish, and any landings of other groundfish species occurs incidental to the fishing effort targeted at sablefish. There is no fishing effort in the state nearshore fisheries directly targeting sablefish with pot gear.

Therefore, there is no separate federal groundfish pot gear fishery targeting species other than sablefish and the proposed WA/OR/CA other groundfish pot fishery is duplicative of the fishing effort already captured in the Category II WA/OR/CA sablefish pot fishery. Based on this information, NMFS does not finalize adding the proposed Category III WA/OR/CA other groundfish pot fishery on the 2022 LOF. NMFS will continue to evaluate the existing data and consider all relevant information for the West Coast groundfish pot gear fisheries in future LOFs.

Comment 9: CBD recommends that the newly proposed Category III CA other crab/shellfish pot fishery be classified as a Category II fishery because of its similarity to

the Dungeness crab and spiny lobster pot fisheries. They note that even with partial observer coverage for the fishery, most marine mammal entanglements on the West Coast cannot be identified to a specific fishery. The absence of a confirmed entanglement in this pot gear is not sufficient to classify the CA other crab/shellfish pot fishery as a Category III fishery.

Response: In the 2022 LOF (86 FR 43491; August 9, 2021), NMFS proposed adding the CA other crab/shellfish pot fishery as a new Category III fishery. Following publication of the proposed 2022 LOF, NMFS re-examined the available data surrounding pot fishing effort for crabs and other shellfish in California. NMFS identified that the only pot fishery targeting crab/shellfish that was not included on the 2021 LOF was the Tanner crab fishery. As a result, NMFS modifies the name of the new Category III fishery from the CA other crab/shellfish fishery to the CA Tanner crab fishery in the final 2022 LOF.

NMFS recognizes that any line in the water presents a risk of marine mammal entanglement. When classifying fisheries, in addition to the general consideration of the risk of entanglements that could be associated with almost any fishery that uses line, NMFS also relies upon information gathered and confirmed through rigorous evaluation of entanglement reports to identify the origins of entanglements as the basis of classification of fixed gear fisheries on the LOF.

To date, the CA Tanner crab fishery has not been associated with or implicated as being involved in the M/SI of any marine mammal species. Although the permit and associated regulations outlined in the fishery description (86 FR 43491; August 9, 2021) have been in place since 2006, the CA Tanner crab fishery is small, with very few participants over its history. As described in the fishery description, the gear is different and fished differently than other Category II CA/West Coast pot fisheries. Unlike many other Category II state-managed fixed gear fisheries, CA state fishery observers monitor

this fishery. The gear is also marked in ways that can help facilitate identification, if involved in future entanglements. As a result, the available information is sufficient to support classification of the CA Tanner crab pot fishery as Category III fishery.

Comments on Commercial Fisheries in the Atlantic Ocean, Gulf of Mexico, and Caribbean.

Comment 9: The Massachusetts Lobstermen's Association and Maine Lobstermen's Association support removing the Massachusetts state waters trap/pot fisheries from the broader Category I Northeast/Mid-Atlantic American lobster trap/pot and Category II Atlantic mixed species trap/pot fisheries and adding the new Category II MA mixed species trap/pot fishery.

Response: NMFS thanks the Massachusetts Lobstermen's Association and Maine Lobstermen's Association for their comments and has added the new Category II MA mixed species trap/pot fishery.

Comment 10: Both the Commission and CLF et al. oppose both separating out the Massachusetts state waters trap/pot fishery from the broader Category I Northeast/Mid-Atlantic American lobster trap/pot and the Category II Atlantic mixed species trap/pot fisheries and adding the new Category II MA mixed species trap/pot fishery on the LOF. They note that trap/pot fisheries in New England, including Massachusetts, have documented M/SI of North Atlantic right whales, humpback whales and minke whales. Both commenters cite that there is a lack of available data to adequately determine if the state of Massachusetts new fishery regulations will sufficiently reduce entanglement risk to North Atlantic right whales. The Commission and CLF et al. recommend NMFS retain the Massachusetts mixed species trap/pot fishery as part of the broader Category I Northeast/Mid-Atlantic American lobster trap/pot and the Category II Atlantic mixed species trap/pot fisheries until the new management measures are determined to be effective in reducing M/SI.

Response: As stated in the proposed rule (86 FR 43491; August 9, 2021), the state of Massachusetts has made significant changes to their trap/pot regulations including gear modifications and changes to seasonal closures that differentiate the Massachusetts state waters trap/pot fishery from the Category I Northeast/Mid-Atlantic American lobster trap/pot and Category II Atlantic mixed species trap/pot fisheries. The new fishery determination is based on considering several characteristics of the Massachusetts mixed species trap/pot fishery as modified by these new state regulations, which will be implemented for the 2022 fishing season including: (1) All commercial trap fishermen in Massachusetts state waters will be required to fish buoy lines that break when exposed to 1,700 pounds (771kg) of tension through the use of weak rope or weak insertions at 60 ft (18 m) intervals along the top 75 percent of the buoy line; (2) all commercial trap fishermen will be required to fish buoy lines with a maximum diameter of 3/8 inch (9.5 mm); and (3) state-specific gear marks will be required to be no more than 60 feet (18 m) apart on all vertical lines, distinguishing the gear from other states that will use different colors and fewer marks. Massachusetts is the only state to require these gear modifications by regulation, creating a consistent standard across the state's waters for all commercial trap/pot fishermen and one that is visibly distinguishable from adjacent gear.

Along with required gear modifications, Massachusetts is implementing extensive seasonal time/area closures that expand current restricted areas in time and space to significantly reduce co-occurrence of the fishery and North Atlantic right whales. As noted in the proposed rule (86 FR 43491; August 9, 2021), these combined management measures are supported by extensive monitoring of North Atlantic right whale populations through state and Federal aerial survey efforts over Massachusetts' waters and enhanced by additional sighting and entanglement reporting.

To separate a Category I fishery into a new fishery due to new regulatory measures, NMFS requires at a minimum that the new fishery significantly reduce the risk

of entanglement of the stock driving the Category I classification, and that the new fishery requires gear marks to distinguish the fishery from its former fishery on the LOF. Massachusetts fulfills these threshold requirements. In addition, the new fishery's classification and status as a separate fishery will be reevaluated annually.

NMFS classifies the new Category II MA mixed species trap/pot fishery based on the regulatory definition (50 CFR 229.2) of a Category II fishery. As described above, this is a newly identified fishery and, as a new fishery, there is no information on incidental mortality and serious injury of marine mammals in this fishery as currently prosecuted. Based on this absence of incidental mortality and serious injury information, no marine mammal species/stocks are included on the list of species/stocks incidentally killed or injured in Table 2 for this new fishery. Species/stocks will be added to the list if mortalities or injuries are documented in the fishery. Using the information from the extensive monitoring programs in Massachusetts state waters, NMFS will annually evaluate the classification of this newly identified fishery for the LOF.

Comment 11: Both ME DMR and MLA comment that, based on the criteria used for classifying the new Category II MA mixed species trap/pot fishery, the Maine state waters lobster trap/pot fishery also meets the definition of a new Category II fishery under the Atlantic Large Whale Take Reduction Plan (ALWTRP) regulations. They state that the Maine state waters trap/pot fishery should be separated out from the broader Category I Northeast/Mid-Atlantic American lobster trap/pot and classified as a separate and independent Category II fishery. Both ME DMR and MLA cite the lack of attributed right whale entanglements in the Maine lobster fishery in over fifteen years, the implementation of additional risk reduction measures via the recent final rule amending the ALWTRP, and the ability to differentiate gear in Maine state waters area from the broader Category Northeast/Mid-Atlantic American lobster trap/pot fishery.

Response: NMFS acknowledges that all lobster and Jonah crab trap/pot fisheries are being required to implement regulatory measures to reduce risk of entanglement to North Atlantic right whales under the new ALWTRP regulations finalized in 2021 (86 FR 51970; September 17, 2021). However, the requirements implemented in Maine state waters are not significantly different from other areas where the fishery exists. Maine weak insertion requirements vary by Maine lobster management area and are not unique to Maine state waters. For comparison, all trap/pot fisheries in Massachusetts state waters are required to either use weak rope in the top 75 percent of the buoy line or include weak inserts every 60 feet within their buoy lines. Maine's gear modifications meet the standards under the ALWTRP throughout federal Lobster Management Area 1. Additionally, the gear marking for Maine state waters is not exclusive to those areas given that dual federal and state lobster permit holders are allowed to use federal marking when fishing in Maine state waters; whereas, the gear modifications combined with markings will allow for Massachusetts trap/pot gear to be identified specifically for state waters.

As previously stated in the final LOF for 2020 (85 FR 21079; April 16, 2020) and 2021 (86 FR 3028; January 14, 2021), most mortalities incidental to trap/pot fisheries are never observed, and Maine state waters cannot be ruled out for several cases of the subset of entanglements where gear has been recovered. Recovered gear has been found with red tracers, indicative of the gear marking scheme that was required for the ALWTRP Northern Inshore Trap/Pot fishery management area, a management area that overlaps Maine, New Hampshire, and Massachusetts state waters. For example, a case from 2011, previously noted in our 2020 and 2021 LOF comment responses, also included recovered gear with these red tracers, though the location of that entanglement remains unknown (E11-11/RW 4040). Therefore, lobster trap/pot fisheries in Maine state waters cannot be ruled out as the potential origin for entanglements with undetermined origins. As stated in

the preamble of the 2022 proposed LOF (86 FR 43491; August 9, 2021), “For fisheries with no observer coverage and for observed fisheries with evidence indicating that undocumented interactions may be occurring (e.g., fishery has low observer coverage and stranding network data include evidence of fisheries interactions that cannot be attributed to a specific fishery) species and stocks may be retained for longer than 5 years. For these fisheries, NMFS will review the other sources of information listed above and use its discretion to decide when it is appropriate to remove a species or stock.” In the case of state-only Maine permitted lobster fisheries, given there is no observer coverage to reference, NMFS retains species and stocks on the list of species/stocks incidentally killed or injured in the fishery outside of the 5-year summary time frame.

In the 2020 final LOF (85 FR 21079; April 16, 2020), NMFS noted that whale sighting information from this area is limited in part due to the lack of directed survey effort and that additional resources were being allocated towards broader surveys to provide further insight into the habitat use and distribution of these whales. While information is limited at this time, sightings and new acoustic data indicate that right whales are using these areas and that the risk of entanglement exists.

Comment 12: A member of the public commented that NMFS based its decision to add the new Category II MA mixed species trap/pot fishery on inaccurate information provided by the Massachusetts Division of Marine Fisheries in comments on the 2021 LOF (86 FR 3028; January 14, 2021). The commenter states the proposed new Category II fishery was based on the state of Massachusetts proposed regulations for trap/pot fisheries, several of which were not finalized, such as changes in the geographic scope of the closed area, banning the use of singles traps on commercial vessels greater 29 feet in length and shortening the haul out periods for recreational fishers.

Response: As described in the 2022 proposed rule (86 FR 43491; August 9, 2021), on January 28, 2021, the Massachusetts Marine Fisheries Advisory Commission

approved several new regulatory measures affecting protected species and fixed gear fishing in Massachusetts. The suite of regulations include gear modifications and changes to seasonal closures that differentiate the Massachusetts trap/pot fishery from the Category I Northeast/Mid-Atlantic American lobster trap/pot and Category II Atlantic mixed species trap/pot fisheries. The Massachusetts Division of Marine Fisheries has begun implementing these regulations, as described above in response to Comment #10, and all measures will be in place for the 2022 fishing season. Based on these new regulations, the Massachusetts Division of Marine Fisheries commented on the 2021 LOF and asked NMFS to consider separating out the trap/pot fixed gear fishery operating in Massachusetts state waters from the Northeast/Mid-Atlantic American lobster trap/pot and Atlantic mixed species trap/pot fisheries. In the 2021 LOF final rule (86 FR 3028; January 14, 2021), NMFS agreed to reevaluate the fishery in the 2022 LOF. NMFS determined that these gear modifications and time/area restrictions sufficiently differentiate the risk posed by the Massachusetts mixed species trap/pot fishery from the surrounding trap/pot fisheries, warranting a separate fishery on the LOF.

Comment 13: A member of the public commented that NMFS' proposed new Category II MA mixed species trap/pot fishery conflicts with the statutory definition of a fishery under the MMPA. The commenter states that the MMPA incorporates the definition of fishery as it is defined in the Magnuson Stevens Fishery Conservation and Management Act (MSA), noting the management of endangered species under the MMPA should occur by fishery as defined under MSA (e.g. fisheries managed by the various species they target) not by how a fishery may protect marine mammals. Therefore, the MMPA prohibits separating out a part of the MSA managed lobster fishery on the LOF.

Response: NMFS disagrees. As stated in the 1995 proposed LOF (60 FR 31668, 16 June 1995): NMFS defined fisheries by gear type, geographical area, and target

species, in accordance with existing state or Federal management designations. However, for some fisheries this information is only partially available or unavailable. In the proposed LOF, NMFS suggested that fisheries could be partitioned as necessary to reflect concentrations of marine mammals in certain areas within a fishery, or at certain times of the year in order to address management actions. Gear type (e.g., mesh size) could also be used to define a fishery to allow flexibility. The proposed LOF would define fisheries based on state or Federal management designations where these designations exist and where practicable. As stated in the 1994 LOF (59 FR 45263; September 1, 1994), NMFS bases fishery definitions on the location of the fishery, the gear type used, and sometimes the target fish species. A fishery may be grouped with other fisheries if the general location and gear type are similar and if the rates of incidental marine mammal M/SI are known or similar. For instance, the U.S. mid-Atlantic coastal gillnet fishery in the 1994 LOF is composed of many small fisheries that target different fish species seasonally but use the same general type or gear, fish in the same general location, and have similar incidental M/SI. When additional information on either incidental M/SI or on the fishery are available, fisheries may be grouped together or split apart in order to better manage the incidental M/SI in those fisheries. New fisheries were defined based on general location, gear type, and, when applicable, target species.

Comment 14: A member of the public states that separating the Massachusetts trap/pot fisheries from the Category I Northeast/Mid-Atlantic American lobster trap/pot and Category II Atlantic mixed species trap/pot fisheries is inconsistent with NMFS June 2020 negligible impact policy statement. The commenter notes NMFS 2020 policy states that fisheries should not be redefined or split on the LOF solely for purposes of making a negligible impact determination under the MMPA.

Response: On June 17, 2020, NMFS finalized Procedure 02-204-02 (Criteria for Determining Negligible Impact under MMPA section 101(a)(5)(E)) (NMFS 2020).

Determining negligible impact under the MMPA is separate from the annual LOF process. As noted in our proposed 2022 LOF rule (86 FR 43491; August 9, 2021) and responses to comments above, NMFS has determined that, in order for a trap/pot fishery to be separated from the Category I fishery and designated as a new fishery, at a minimum the new fishery significantly reduces the risk of entanglement of the stock driving the Category I classification and the new fishery requires gear marks to distinguish the fishery from its former fishery on the LOF. Massachusetts fulfills these threshold requirements.

Comment 15: A member of the public states that there is no scientific evidence to show that the regulatory changes to the Massachusetts trap/pot fishery will reduce the risk to North Atlantic right whales. The commenter asserts there was no scientific basis for the conclusion in the proposed rule because (1) public hearings were not conducted for the proposed rule, and (2) there is no evidence to show the Massachusetts regulations will reduce North Atlantic right whale M/SI.

Response: As stated in the proposed rule (86 FR 43491; August 9, 2021) and reiterated in the responses to comments above about separating this fishery, NMFS considers the suite of changes to the fishery gear and operation to be significant enough to distinguish it from other trap/pot fisheries (in particular, see response to Comment #11). NMFS will continue to evaluate information received from the extensive monitoring programs in Massachusetts state waters, as well as throughout the range of North Atlantic right whales, to annually evaluate the classification of this newly identified fishery for the LOF.

Summary of Changes from the Proposed Rule

In this final rule, NMFS adds the CA Tanner crab pot fishery as a Category III fishery. This fishery was proposed in the 2022 LOF (86 FR 43491; August 9, 2021) as the Category III CA other crab/shellfish pot fishery. Based on public comment, NMFS

modified the name of this new fishery to the CA Tanner crab pot fishery, as it is the only crab/shellfish pot fishery that is not currently named on the LOF. There is currently one participant in this fishery.

In this final rule, NMFS does not add the WA/OR/CA other groundfish pot fishery as a new Category III fishery as proposed. Upon further review, NMFS concludes that there is no separate federal groundfish pot gear fishery targeting species other than sablefish, and the proposed WA/OR/CA other groundfish pot fishery would have been duplicative of the current Category II WA/OR/CA sablefish pot fishery. Based on not adding the proposed WA/OR/CA other groundfish pot fishery, NMFS retains the previously named Category III CA nearshore finfish trap fishery. This fishery was proposed to be combined with the new WA/OR/CA other groundfish pot fishery.

Based on public comment, NMFS retains the following four stocks on the list of species/stocks incidentally killed or injured in the Category I HI deep-set longline fishery: (1) pelagic stock of bottlenose dolphin, (2) Hawaii stock of *Kogia* spp., (3) Hawaii stock of Risso's dolphin and (4) Hawaii stock of striped dolphin.

Based on public comment, NMFS retains the Central North Pacific stock of humpback whale on the list of species/stocks incidentally killed or injured in the Category I Western Pacific Pelagic (HI deep-set component) fishery.

Based on public comment, NMFS retains four stocks on the list of species/stocks incidentally killed or injured in the Category II HI shallow-set longline fishery: (1) Hawaii pelagic stock of bottlenose dolphin, (2) Central North Pacific stock of humpback whale, (3) Hawaii stock of Risso's dolphin and (4) Hawaii stock of striped dolphin.

Based on public comment, NMFS adds Hawaiian monk seal to the list of species/stocks incidentally killed or injured in the Category III HI offshore pen culture fishery.

In this final rule, NMFS corrects an error on the list of stocks incidentally killed or injured in the Category III AK Prince William Sound salmon set gillnet fishery. On the 2019 LOF (84 FR 22051; May 16, 2019), NMFS incorrectly added the Central North Pacific stock of humpback whale to the list of stocks incidentally killed or injured in the Category III AK Prince William Sound salmon set gillnet fishery based on stranding reports of two injuries in 2015. The 2020 SAR correctly attributes the 2015 humpback whale stranding reports to the Category II AK Prince William Sound salmon drift gillnet fishery, not the Category III Prince William Sound salmon set gillnet fishery (Muto *et al.*, 2021). NMFS removes the Central North Pacific stock of humpback whale from the list of stocks incidentally killed or injured in the Category III AK Prince William Sound salmon set gillnet fishery. NMFS adds the Central North Pacific stock of humpback to the list of stocks incidentally killed or injured in the Category II AK Prince William Sound salmon drift gillnet fishery. This correction does not change the classification of the Category II AK Prince William Sound salmon drift gillnet fishery or the Category III AK Prince William Sound salmon set gillnet fishery.

NMFS updates the MMAP certificate process for calendar year 2022. MMAP certificates issued in 2020 remain in effect, valid through December 31, 2022, for vessel or gear owners participating in all Category I and II fisheries as of the final 2022 LOF.

Summary of Changes to the LOF for 2022

The following summarizes changes to the LOF for 2022, including the classification of fisheries, fisheries listed, the estimated number of vessels/persons in a particular fishery, and the species and/or stocks that are incidentally killed or injured in a particular fishery. NMFS re-classifies one fishery in the LOF for 2022. Additionally, NMFS adds three fisheries to the LOF. NMFS also makes changes to the estimated number of vessels/persons and list of species and/or stocks killed or injured in certain fisheries. The classifications and definitions of U.S. commercial fisheries for 2022 are

identical to those provided in the LOF for 2021 with the changes discussed below. State and regional abbreviations used in the following paragraphs include: AK (Alaska), BSAI (Bering Sea, Aleutian Island), CA (California), Gulf of Alaska (GOA), HI (Hawaii), Maine Hawaiian Islands (MHI), OR (Oregon), WA (Washington), and WNA (Western North Atlantic).

Commercial Fisheries in the Pacific Ocean

Classification of Fisheries

NMFS reclassifies the Category II AK Bering Sea, Aleutian Island (BSAI) rockfish trawl fishery from a Category II to a Category III fishery.

Addition of Fisheries

NMFS adds the CA Tanner crab pot fishery as a Category III fishery.

NMFS adds the CA/OR/WA non-albacore Highly Migratory Species (HMS) hook and line fishery as a Category III fishery.

Fishery Name and Organizational Changes and Clarification

NMFS removes the superscript “1” from the Main Hawaiian Islands (MHI) insular stock of false killer whale to indicate the stock is no longer driving the Category I classification of the HI deep-set longline fishery.

NMFS corrects an administrative error in Table 1. NMFS adds the superscript “1” CA/OR/WA stock of humpback whales to indicate the stock is driving the Category II classification of the CA coonstripe shrimp pot fishery.

NMFS renames the Category III WA/OR herring, smelt, squid purse seine or lampara fishery to the WA/OR herring, anchovy, smelt, squid purse seine or lampara fishery.

NMFS renames the Category III WA salmon purse seine fishery to the WA salmon seine fishery.

NMFS combines the Category III CA halibut hook and line/handline fishery and Category III CA white seabass hook and line/handline fishery, and names it the Category III CA halibut, white seabass, and yellowtail hook and line/handline fishery.

NMFS renames the Category III WA/OR Pacific halibut longline fishery to the WA/OR/CA Pacific halibut longline fishery.

NMFS renames the Category III WA/CA kelp fishery to the CA/WA kelp, seaweed, and algae fishery.

NMFS combines the Category III WA groundfish, bottomfish jig fishery and the hook and line component of the Category III CA nearshore finfish live trap/hook-and-line fishery, and names it the Category III WA/OR/CA groundfish/finfish hook and line fishery.

NMFS combines and renames the Category III WA/OR bait shrimp, clam, hand, dive, or mechanical collection fishery and the Category III OR/CA sea urchin, sea cucumber hand, dive, or mechanical collection fishery into two distinct gear-based Category III fisheries: (1) the CA/OR/WA dive collection fishery and (2) the WA/OR/CA hand/mechanical collection fishery.

Number of Vessels/Persons

NMFS updates the estimated number of vessels/persons in the Pacific Ocean (Table 1) as follows:

Category II

- CA thresher shark/swordfish drift gillnet (≥ 14 in mesh) fishery from 14 to 21 vessels/persons;
- CA halibut/white seabass and other species set gillnet (> 3.5 in mesh) fishery from 37 to 39 vessels/persons;
- CA yellowtail, barracuda, and white seabass drift gillnet (mesh size ≥ 3.5 in and < 14 in) fishery from 22 to 20 vessels/persons;
- WA Puget Sound Region salmon drift gillnet fishery from 154 to 136 vessels/persons;
- CA coonstripe shrimp pot fishery from 14 to 9 vessels/persons;
- CA spiny lobster fishery from 186 to 189 vessels/persons;
- CA spot prawn pot fishery from 23 to 22 vessels/persons;
- CA Dungeness crab pot fishery from 501 to 471 vessels/persons;
- OR Dungeness crab pot fishery from 342 to 323 vessels/persons;
- WA/OR/CA sablefish pot fishery from 155 to 144 vessels/persons;
- WA coastal Dungeness crab pot fishery from 197 to 204 vessels/persons;
- HI shortline fishery from 9 to 5 vessels/persons;

Category III

- CA set gillnet (mesh size < 3.5 in) fishery from 296 to 11 vessels/persons;
- HI inshore gillnet fishery from 36 to 29 vessels/persons;
- WA Grays Harbor salmon drift gillnet fishery from 24 to 19 vessels/persons;
- WA/OR Mainstem Columbia River eulachon gillnet fishery from 5 to 10 vessels/persons;
- WA Willapa Bay drift gillnet fishery from 82 to 57 vessels/persons;
- WA/OR sardine purse seine fishery from 42 to 6 vessels/persons;
- CA anchovy, mackerel, sardine purse seine fishery from 65 to 53 vessels/persons;
- CA squid purse seine fishery from 80 to 68 persons/vessels;

- CA tuna purse seine fishery from 10 to 14 vessels/persons;
- WA/OR Lower Columbia River salmon seine fishery from 10 to 1 person/vessel;
- WA/OR herring, anchovy, smelt, squid purse seine or lampara fishery from 130 to 41 vessels/persons;
- WA salmon seine fishery from 75 to 81 vessels/persons;
- HI lift net fishery from 17 to 15 vessels/persons;
- HI inshore purse seine fishery from <3 to none recorded vessels/persons;
- HI throw net, cast net fishery from 23 to 15 vessels/persons;
- HI seine net fishery from 24 to 17 vessels/persons;
- CA squid dip net fishery from 115 to 19 vessels/persons;
- HI offshore pen culture fishery from 2 to 1 vessels/persons;
- WA/OR/CA albacore surface hook and line/troll fishery from 705 to 556 vessels/persons;
- CA/OR/WA salmon troll fishery from 4,300 to 1,030 vessels/persons;
- HI troll fishery from 2,117 to 1,380 vessels/persons;
- HI rod and reel fishery from 322 to 237 vessels/persons;
- Guam tuna troll fishery from 432 to 398 vessels/persons;
- WA/OR/CA groundfish, bottomfish longline/set line fishery from 367 to 314 vessels/persons;
- WA/OR/CA Pacific halibut longline fishery from 350 to 130 vessels/persons;
- CA pelagic longline fishery from 1 to 4 vessels/persons;
- HI kaka line fishery from 15 to 5 vessels/persons;
- HI vertical line fishery from 3 to none recorded vessels/persons;
- CA halibut bottom trawl fishery from 47 to 23 vessels/persons;
- CA sea cucumber trawl fishery from 16 to 11 vessels/persons;
- WA/OR/CA shrimp trawl fishery from 300 to 130 vessels/persons;

- WA/OR/CA groundfish trawl fishery from 160-180 to 118 vessels/persons;
- CA rock crab pot fishery from 124 to 113 vessels/persons;
- WA/OR/CA hagfish pot fishery from 54 to 63 vessels/persons;
- WA/OR shrimp pot/trap fishery from 54 to 28 vessels/persons;
- WA Puget Sound Dungeness crab pot/trap fishery from 249 to 145 vessels/persons;
- HI crab trap fishery from 5 to 4 vessels/persons;
- HI fish trap fishery from 9 to 4 vessels/persons;
- HI lobster trap fishery from <3 to none recorded vessels/persons;
- HI shrimp trap fishery from 10 to 3 vessels/persons;
- HI crab net fishery from 4 to none recorded vessels/persons;
- HI kona crab loop net fishery from 33 to 20 vessels/persons;
- American Samoa bottomfish handline fishery from fewer than 20 to 9 vessels/persons;
- Commonwealth of the Northern Mariana Islands bottomfish fishery from 28 to 11 vessels/persons;
- Guam bottomfish fishery from >300 to 67 vessels/persons;
- HI aku boat, pole and line fishery from <3 to none recorded vessels/persons;
- HI bottomfish handline fishery from 578 to 385 vessels/persons;
- HI inshore handline fishery from 357 to 206 vessels/persons;
- HI pelagic handline fishery from 534 to 300 vessels/persons;
- CA swordfish harpoon fishery from 6 to 21 vessels/persons;
- HI bullpen trap fishery from 3 to none recorded vessels/persons;
- HI black coral diving fishery from <3 to none recorded vessels/persons;
- HI fish pond fishery from 5 to none recorded vessels/persons;
- HI handpick fishery from 46 to 25 vessels/persons;

- HI lobster diving fishery from 19 to 12 vessels/persons;
- HI spearfishing fishery from 163 to 82 vessels/persons; and
- HI aquarium collecting fishery from 90 to 34 vessels/persons.

List of Species and/or Stocks Incidentally Killed or Injured in the Pacific Ocean

NMFS adds the Eastern North Pacific stock of gray whale and the Central North Pacific stock of humpback to the list of species/stocks incidentally killed or injured in the Category II AK Prince William Sound salmon drift gillnet fishery.

NMFS adds three stocks to the list of species/stocks incidentally killed or injured in the Category II AK Bering Sea, Aleutian Islands pollock trawl fishery: (1) Arctic stock of ringed seal, (2) Central North Pacific stock of humpback whale and (3) Western North Pacific stock of humpback whale.

NMFS adds the U.S. stock of California sea lion to the list of species/stocks incidentally killed or injured in the Category II CA spiny lobster fishery.

NMFS adds the California stock of Northern elephant seal to the list of species/stocks incidentally killed or injured in the Category II AK Gulf of Alaska sablefish longline fishery.

NMFS adds both the Western U.S. stock of Steller sea lion and North Kodiak stock of harbor seal to the list of species/stocks incidentally killed or injured in the Category III AK Kodiak salmon purse seine fishery.

NMFS adds the Gulf of Alaska, Aleutian Islands, Bering Sea transient stock of killer whale to the list of species/stocks incidentally killed or injured in the Category III AK Bering Sea, Aleutian Greenland turbot longline fishery.

NMFS adds the Clarence Strait stock of harbor seal to the list of species/stocks incidentally killed or injured in the Category III AK Gulf of Alaska halibut longline fishery.

NMFS adds the Cook Inlet/Shelikof Strait stock of harbor seal to the list of species/stocks incidentally killed or injured in the Category III AK Gulf of Alaska Pacific cod longline fishery.

NMFS adds the California stock of Northern elephant seal to the list of species/stocks incidentally killed or injured in the Category III AK Bering Sea, Aleutian Islands Atka mackerel trawl fishery.

NMFS adds three stocks to the list of species/stocks incidentally killed or injured in the Category III AK Gulf of Alaska flatfish trawl fishery. The three stocks are: (1) Cook Inlet/Shelikof Strait stock of harbor seal, (2) North Kodiak stock of harbor seal, and (3) South Kodiak stock of harbor seal.

NMFS adds the North Pacific stock of sperm whale to the list of species/stocks incidentally killed or injured in the Category III AK Bering Sea, Aleutian Islands sablefish pot fishery.

NMFS adds the U.S. stock of California sea lion to the list of species/stocks incidentally killed or injured in the Category III WA/OR/CA groundfish/finfish hook and line fishery.

NMFS adds the Central North Pacific stock of humpback whale to the list of species/stocks incidentally killed or injured in the Category III AK/WA/OR/CA commercial passenger fishing vessel fishery.

NMFS retains the following four stocks on the list of species/stocks incidentally killed or injured in the Category I HI deep-set longline fishery: (1) pelagic stock of bottlenose dolphin, (2) Hawaii stock of *Kogia* spp., (3) Hawaii stock of Risso's dolphin and (4) Hawaii stock of striped dolphin.

NMFS retains four stocks on the list of species/stocks incidentally killed or injured in the Category II HI shallow-set longline fishery: (1) Hawaii pelagic stock of

bottlenose dolphin, (2) Central North Pacific stock of humpback whale, (3) Hawaii stock of Risso's dolphin and (4) Hawaii stock of striped dolphin.

NMFS adds the unknown stock of striped dolphin to the list of species/stocks incidentally killed or injured in the Category II American Samoa longline fishery.

NMFS adds Hawaiian monk seal to the list of species/stocks incidentally killed or injured in the Category III HI offshore pen culture fishery.

NMFS removes the Central North Pacific stock of humpback whale from the list of stocks incidentally killed or injured in the Category III AK Prince William Sound salmon set gillnet fishery.

NMFS removes the Alaska resident stock of killer whale from the list of species/stocks incidentally killed or injured in the Category III AK Bering Sea, Aleutian Islands Greenland turbot longline fishery.

NMFS removes the Alaska stock of spotted seal from the list of species/stocks incidentally killed or injured in the Category III AK Bering Sea, Aleutian Islands Pacific cod longline fishery.

NMFS removes six stocks from the list of species/stocks incidentally killed or injured in the Category II AK Bering Sea, Aleutian Islands pollock trawl fishery: (1) Alaska stock of bearded seal, (2), Bristol Bay stock of beluga whale, (3) Eastern Bering Sea stock of beluga whale, (4) Eastern Chukchi Sea stock of beluga whale, (5) Eastern Pacific stock of Northern fur seal and (6) Alaska stock of spotted seal.

NMFS removes the Alaska stock of bearded seal from the list of species/stocks incidentally killed or injured in the Category III AK Bering Sea, Aleutian Islands Atka mackerel trawl fishery.

NMFS removes both the Gulf of Alaska, Aleutian Islands, Bering Sea transient stock and Eastern North Pacific Alaska resident stock of killer whale from the list of

species/stocks incidentally killed or injured in the Category III AK Bering Sea, Aleutian Islands rockfish trawl fishery.

NMFS removes the North Pacific stock of Northern elephant seal from the list of species/stocks incidentally killed or injured in the Category III AK Gulf of Alaska flatfish trawl fishery.

NMFS removes the Alaska stock of harbor seal from the list of species/stocks incidentally killed or injured in the Category III AK Gulf of Alaska Pacific cod trawl fishery.

NMFS removes three stocks from the list of species/stocks incidentally killed or injured in the Category III AK Gulf of Alaska pollock trawl fishery: (1) Alaska stock of Dall's porpoise, (2) Northeast Pacific stock of fin whale and (3) North Pacific stock of Northern elephant seal.

NMFS removes the Gulf of Alaska stock of harbor seal from the list of species/stocks incidentally killed or injured in the Category III AK Gulf of Alaska Pacific cod pot fishery.

NMFS removes the Northeast Pacific stock of fin whale from the list of species/stocks incidentally killed or injured in the Category III AK Gulf of Alaska groundfish jig fishery.

NMFS removes the Hawaii stock of pygmy killer whale from the list of species/stocks incidentally killed or injured in the Category I HI deep-set longline fishery.

NMFS removes the Hawaii stock of Blainville's beaked whale and Hawaii stock of rough-toothed dolphin from the list of species/stocks incidentally killed or injured in the Category II HI shallow-set longline fishery.

NMFS revises marine mammal stock names on the list of species/stocks incidentally killed or injured for consistency with the current stock names in the SARs as follows:

Category II AK Cook Inlet salmon set gillnet fishery

- Harbor seal, GOA to harbor seal, Cook Inlet/Shelikof Strait;

Category II AK Bering Sea, Aleutian Islands flatfish trawl fishery

- Bearded seal, AK to bearded seal, Beringia;
- Harbor seal, Bering Sea to harbor seal, Bristol Bay;
- Killer whale, AK resident to killer whale, Eastern North Pacific Alaska resident;
- Killer whale, GOA, AI, BS transient to killer whale, Eastern North Pacific GOA, AI, BS transient;
- Ringed seal, AK to ringed seal, Arctic;
- Ribbon seal, AK to ribbon seal;
- Spotted seal, AK to spotted seal, Bering;

Category II AK Bering Sea, Aleutian Islands pollock trawl fishery

- Harbor seal, AK to harbor seal, Bristol Bay;
- Ribbon seal, AK to ribbon seal;

Category II AK Prince William Sound salmon set gillnet fishery

- Harbor seal, GOA to harbor seal, Prince William Sound;

Category III AK Bering Sea, Aleutian Islands rockfish trawl fishery

- Ribbon seal, AK to ribbon seal; and

Category III AK Bering Sea, Aleutian Islands Pacific cod trawl fishery

- Ribbon seal, AK to ribbon seal.

Commercial Fisheries in the Atlantic Ocean, Gulf of Mexico, and Caribbean

Fishery Name and Organizational Changes and Clarification

NMFS adds a new fishery, MA mixed species trap/pot fishery, as a Category II fishery that encompasses all trap/pot fishing that occurs in state waters of Massachusetts. We remove Massachusetts state waters trap/pot fisheries from the broader Category I Northeast/Mid-Atlantic American lobster trap/pot and Category II Atlantic mixed species trap/pot fisheries. NMFS adds the fishery to the list of affected fisheries for the ALWTRP in Table 4.

List of Species and/or Stocks Incidentally Killed or Injured in the Atlantic Ocean, Gulf of Mexico, and Caribbean

NMFS adds the Northern migratory coastal stock of bottlenose dolphin to the list of species/stocks incidentally killed or injured in the Category I Northeast sink gillnet fishery.

NMFS adds both the Pensacola Bay, East Bay stock and Perdido Bay stocks of bottlenose dolphin to the list of species/stocks incidentally killed or injured in the Category II Southeastern U.S. Atlantic, Gulf of Mexico shrimp trawl fishery.

Commercial Fisheries on the High Seas

Fishery Name and Organizational Changes and Clarification

NMFS renames the Category II South Pacific tuna purse seine fishery to the Western and Central Pacific Ocean tuna purse seine fishery.

NMFS clarifies the fishery description for the renamed Category II Western and Central Pacific Ocean tuna purse seine fishery. NMFS clarifies that the only gear type used in this fishery is purse seine. Based on this clarification, NMFS also removes the Category II South Pacific tuna longline fishery from the LOF.

Number of Vessels/Persons

NMFS updates the estimated number of HSFCA permits for high seas fisheries (Table 3) as follows:

Category I

- Atlantic highly migratory species longline fishery from 45 to 39 HSFCA permits;

Category II

- Western and Central Pacific Ocean tuna purse seine fishery from 26 to 20 HSFCA permits;
- Pacific highly migratory species handline/pole and line fishery from 43 to 44 HSFCA permits;
- South Pacific albacore troll handline/pole and line fishery from 10 to 9 HSFCA permits;
- South Pacific albacore troll fishery from 18 to 20 HSFCA permits; South Pacific tuna troll fishery from 1 to 0 HSFCA permits;
- Western Pacific pelagic troll fishery from 4 to 6 HSFCA permits;

Category III

- Pacific highly migratory species longline fishery from 105 to 111 HSFCA permits; and
- Pacific highly migratory species troll fishery from 111 to 107 HSFCA permits.

List of Species and/or Stocks Incidentally Killed or Injured on the High Seas

NMFS retains the Central North Pacific stock of humpback whale on the list of species/stocks incidentally killed or injured in the Category I Western Pacific Pelagic (HI deep-set component) fishery.

NMFS adds the following 18 stocks to the list of species/stocks incidentally killed or injured in the Category II Western and Central Pacific Ocean tuna purse seine fishery: (1) Hawaii pelagic stock of bottlenose dolphin, (2) unknown stock of blue whale, (3) Hawaii stock of Bryde's whale, (4) Hawaii pelagic stock of false killer whale, (5) Hawaii stock of fin whale, (6) unknown stock of humpback whale, (7) Indo-Pacific bottlenose dolphin, (8) California stock of long-beaked common dolphin, (9) unknown stock of melon-headed whale, (10) Hawaii stock of minke whale, (11) unknown stock of

pantropical spotted dolphin, (12) Hawaii stock of pygmy killer whale, (13) unknown stock of Risso's dolphin, (14) unknown stock of rough-toothed dolphin, (15) Hawaii stock of sei whale, (16) unknown stock of short-finned pilot whale, (17) Hawaii stock of sperm whale, and (18) unknown stock of spinner dolphin.

NMFS adds Ginkgo-toothed beaked whale to the list of species/stocks incidentally killed or injured in the Category II Western Pacific Pelagic longline fishery (HI shallow-set component).

NMFS removes the Hawaii stock of pygmy killer whale from the list of species/stocks incidentally killed or injured in the Category I Western Pacific Pelagic longline fishery (HI deep-set component).

NMFS removes three stocks from the list of species/stocks incidentally killed or injured in the Category II Western Pacific Pelagic longline fishery (HI shallow-set component). The three stocks are: (1) Hawaii stock of Blainville's beaked whale, (2) unknown stock of Mesoplodon species, and (3) Hawaii stock of rough-toothed dolphin.

List of Fisheries

The following tables set forth the list of U.S. commercial fisheries according to their classification under section 118 of the MMPA. Table 1 lists commercial fisheries in the Pacific Ocean (including Alaska), Table 2 lists commercial fisheries in the Atlantic Ocean, Gulf of Mexico, and Caribbean, Table 3 lists commercial fisheries on the high seas, and Table 4 lists fisheries affected by TRPs or TRTs.

In Tables 1 and 2, the estimated number of vessels or persons participating in fisheries operating within U.S. waters is expressed in terms of the number of active participants in the fishery, when possible. If this information is not available, the estimated number of vessels or persons licensed for a particular fishery is provided. If no recent information is available on the number of participants, vessels, or persons licensed in a fishery, then the number from the most recent LOF is used for the estimated number

of vessels or persons in the fishery. NMFS acknowledges that, in some cases, these estimates may be inflations of actual effort. For example, the State of Hawaii does not issue fishery-specific licenses, and the number of participants reported in the LOF represents the number of commercial marine license holders who reported using a particular fishing gear type/method at least once in a given year, without considering how many times the gear was used. For these fisheries, effort by a single participant is counted the same whether the fisherman used the gear only once or every day. In the Mid-Atlantic and New England fisheries, the numbers represent the potential effort for each fishery, given the multiple gear types for which several state permits may allow. Changes made to Mid-Atlantic and New England fishery participants will not affect observer coverage or bycatch estimates, as observer coverage and bycatch estimates are based on vessel trip reports and landings data. Tables 1 and 2 serve to provide a description of the fishery's potential effort (state and Federal). If NMFS is able to gather more accurate information on the gear types used by state permit holders in the future, the numbers will be updated to reflect this change. For additional information on fishing effort in fisheries found on Table 1 or 2, contact the relevant regional office (contact information included above in **Where can I find more information about the LOF and the MMAP?** section).

For high seas fisheries, Table 3 lists the number of valid HSFCA permits currently held. Although this likely overestimates the number of active participants in many of these fisheries, the number of valid HSFCA permits is the most reliable data on the potential effort in high seas fisheries at this time. As noted previously, the number of HSFCA permits listed in Table 3 for the high seas components of fisheries that also operate within U.S. waters does not necessarily represent additional effort that is not accounted for in Tables 1 and 2. Many vessels holding HSFCA permits also fish within U.S. waters and are included in the number of vessels and participants operating within those fisheries in Tables 1 and 2.

Tables 1, 2, and 3 also list the marine mammal species and/or stocks incidentally killed or injured (seriously or non-seriously) in each fishery based on SARs, injury determination reports, bycatch estimation reports, observer data, logbook data, stranding data, disentanglement network data, fishermen self-reports (*i.e.*, MMAP reports), and anecdotal reports. The best available scientific information included in these reports is based on data through 2018. This list includes all species and/or stocks known to be killed or injured in a given fishery, but also includes species and/or stocks for which there are anecdotal records of a mortality or injury. Additionally, species identified by logbook entries, stranding data, or fishermen self-reports (*i.e.*, MMAP reports) may not be verified. In Tables 1 and 2, NMFS has designated those species/stocks driving a fishery's classification (*i.e.*, the fishery is classified based on mortalities and serious injuries of a marine mammal stock that are greater than or equal to 50 percent (Category I), or greater than 1 percent and less than 50 percent (Category II), of a stock's PBR) by a "1" after the stock's name.

In Tables 1 and 2, there are several fisheries classified as Category II that have no recent documented mortalities or serious injuries of marine mammals, or fisheries that did not result in a mortality or serious injury rate greater than 1 percent of a stock's PBR level based on known interactions. NMFS has classified these fisheries by analogy to other Category I or II fisheries that use similar fishing techniques or gear that are known to cause mortality or serious injury of marine mammals, as discussed in the final LOF for 1996 (60 FR 67063; December 28, 1995), and according to factors listed in the definition of a "Category II fishery" in 50 CFR 229.2 (*i.e.*, fishing techniques, gear types, methods used to deter marine mammals, target species, seasons and areas fished, qualitative data from logbooks or fishermen reports, stranding data, and the species and distribution of marine mammals in the area). NMFS has designated those fisheries listed by analogy in Tables 1 and 2 by adding a "2" after the fishery's name.

There are several fisheries in Tables 1, 2, and 3 in which a portion of the fishing vessels cross the EEZ boundary and therefore operate both within U.S. waters and on the high seas. These fisheries, though listed separately on Table 1 or 2 and Table 3, are considered the same fisheries on either side of the EEZ boundary. NMFS has designated those fisheries in each table with an asterisk (*) after the fishery's name.

Table 1 -- List of Fisheries -- Commercial Fisheries in the Pacific Ocean

Fishery Description	Estimated Number of vessels/ persons	Marine mammal species and/or stocks incidentally killed or injured
CATEGORY I		
<i>Longline/Set Line Fisheries:</i>		
HI deep-set longline * ^	143	Bottlenose dolphin, HI Pelagic. False killer whale, HI Pelagic ¹ . False killer whale, MHI Insular. False killer whale, NWHI. Humpback whale. Central North Pacific. Kogia spp. (Pygmy or dwarf sperm whale), HI. Risso's dolphin, HI. Rough-toothed dolphin, HI. Short-finned pilot whale, HI. Striped dolphin, HI.
CATEGORY II		
<i>Gillnet Fisheries:</i>		
CA thresher shark/swordfish drift gillnet (≥14 in mesh) *	21	Bottlenose dolphin, CA/OR/WA offshore. California sea lion, U.S. Dall's porpoise, CA/OR/WA. Gray whale, Eastern North Pacific. Humpback whale, CA/OR/WA. Long-beaked common dolphin, CA. Minke whale, CA/OR/WA ¹ . Northern elephant seal, CA breeding. Northern right-whale dolphin, CA/OR/WA. Pacific white-sided dolphin, CA/OR/WA. Risso's dolphin, CA/OR/WA. Short-beaked common dolphin, CA/OR/WA. Short-finned pilot whale, CA/OR/WA ¹ . Sperm Whale, CA/OR/WA ¹ .
CA halibut/white seabass and other species set gillnet (>3.5 in mesh)	39	California sea lion, U.S. Gray whale, Eastern North Pacific. Harbor seal, CA. Humpback whale, CA/OR/WA ¹ . Long-beaked common dolphin, CA. Northern elephant seal, CA breeding. Sea otter, CA. Short-beaked common dolphin, CA/OR/WA.
CA yellowtail, barracuda, and white seabass drift gillnet (mesh size ≥3.5 in and <14 in) ²	20	California sea lion, U.S. Long-beaked common dolphin, CA. Short-beaked common dolphin, CA/OR/WA.
AK Bristol Bay salmon drift gillnet ²	1,862	Beluga whale, Bristol Bay. Gray whale, Eastern North Pacific. Harbor seal, Bering Sea. Northern fur seal, Eastern Pacific. Pacific white-sided dolphin, North Pacific. Spotted seal, AK. Steller sea lion, Western U.S.

AK Bristol Bay salmon set gillnet ²	979	Beluga whale, Bristol Bay. Gray whale, Eastern North Pacific. Harbor seal, Bering Sea. Northern fur seal, Eastern Pacific. Spotted seal, AK.
AK Kodiak salmon set gillnet	188	Harbor porpoise, GOA ¹ . Harbor seal, GOA. Humpback whale, Central North Pacific. Humpback whale, Western North Pacific. Sea otter, Southwest AK. Steller sea lion, Western U.S.
AK Cook Inlet salmon set gillnet	736	Beluga whale, Cook Inlet. Dall's porpoise, AK. Harbor porpoise, GOA. Harbor seal, Cook Inlet/Shelikof Strait.. Humpback whale, Central North Pacific ¹ . Sea otter, South central AK. Steller sea lion, Western U.S.
AK Cook Inlet salmon drift gillnet	569	Beluga whale, Cook Inlet. Dall's porpoise, AK. Harbor porpoise, GOA ¹ . Harbor seal, GOA. Steller sea lion, Western U.S.
AK Peninsula/Aleutian Islands salmon drift gillnet ²	162	Dall's porpoise, AK. Harbor porpoise, GOA. Harbor seal, GOA. Northern fur seal, Eastern Pacific.
AK Peninsula/Aleutian Islands salmon set gillnet ²	113	Harbor porpoise, Bering Sea. Northern sea otter, Southwest AK. Steller sea lion, Western U.S.
AK Prince William Sound salmon drift gillnet	537	Dall's porpoise, AK. Gray whale, Eastern North Pacific. Harbor porpoise, GOA ¹ . Harbor seal, Prince William Sound. Humpback whale, Central North Pacific. Northern fur seal, Eastern Pacific. Pacific white-sided dolphin, North Pacific. Sea otter, South central AK. Steller sea lion, Western U.S. ¹
AK Southeast salmon drift gillnet	474	Dall's porpoise, AK. Harbor porpoise, Southeast AK. Harbor seal, Southeast AK. Humpback whale, Central North Pacific ¹ . Pacific white-sided dolphin, North Pacific. Steller sea lion, Eastern U.S.
AK Yakutat salmon set gillnet ²	168	Gray whale, Eastern North Pacific. Harbor Porpoise, Southeastern AK. Harbor seal, Southeast AK. Humpback whale, Central North Pacific (Southeast AK).

WA Puget Sound Region salmon drift gillnet (includes all inland waters south of US-Canada border and eastward of the Bonilla-Tatoosh line-Treaty Indian fishing is excluded)	136	Dall's porpoise, CA/OR/WA. Harbor porpoise, inland WA ¹ . Harbor seal, WA inland.
<i>Trawl Fisheries:</i>		
AK Bering Sea, Aleutian Islands flatfish trawl	32	Bearded seal, Beringia. Gray whale, Eastern North Pacific. Harbor porpoise, Bering Sea. Harbor seal, Bristol Bay. Humpback whale, Western North Pacific ¹ . Killer whale, Eastern North Pacific Alaska resident ¹ . Killer whale, Eastern North Pacific GOA, AI, BS transient ¹ . Northern fur seal, Eastern Pacific. Ringed seal, Arctic. Ribbon seal. Spotted seal, Bering. Steller sea lion, Western U.S. ¹ . Walrus, AK.
AK Bering Sea, Aleutian Islands pollock trawl	102	Harbor seal, Bristol Bay. Humpback whale, Central North Pacific. Humpback whale, Western North Pacific. Ribbon seal. Ringed seal, Arctic. Steller sea lion, Western U.S. ¹ .
<i>Pot, Ring Net, and Trap Fisheries:</i>		
AK Bering Sea, Aleutian Islands Pacific cod pot	59	Harbor seal, Bristol Bay. Humpback whale, Central North Pacific. Humpback whale, Western North Pacific.
CA coonstripe shrimp pot	9	Gray whale, Eastern North Pacific. Harbor seal, CA. Humpback whale, CA/OR/WA ¹ .
CA spiny lobster	189	Bottlenose dolphin, CA/OR/WA offshore. California sea lion, U.S. Humpback whale, CA/OR/WA ¹ . Gray whale, Eastern North Pacific. Southern sea otter.
CA spot prawn pot	22	Gray whale, Eastern North Pacific. Humpback whale, CA/OR/WA ¹ . Long-beaked common dolphin, CA.
CA Dungeness crab pot	471	Blue whale, Eastern North Pacific ¹ . Gray whale, Eastern North Pacific. Humpback whale, CA/OR/WA ¹ . Killer whale, Eastern North Pacific GOA, BSAI transient. Killer whale, West Coast transient.
OR Dungeness crab pot	323	Gray whale, Eastern North Pacific. Humpback whale, CA/OR/WA ¹ .
WA/OR/CA sablefish pot	144	Humpback whale, CA/OR/WA ¹ .
WA coastal Dungeness crab pot	204	Gray whale, Eastern North Pacific. Humpback whale, CA/OR/WA ¹ .
<i>Longline/Set Line Fisheries:</i>		

AK Gulf of Alaska sablefish longline	295	Northern elephant seal, California. Sperm whale, North Pacific. Steller sea lion, Eastern U.S.
HI shallow-set longline * ^	11	Bottlenose dolphin, HI Pelagic. False killer whale, HI Pelagic ¹ . Humpback whale, Central North Pacific. Risso's dolphin, HI. Striped dolphin, HI.
American Samoa longline ²	13	False killer whale, American Samoa. Rough-toothed dolphin, American Samoa. Short-finned pilot whale, unknown. Striped dolphin, unknown.
HI shortline ²	5	None documented.
CATEGORY III		
<i>Gillnet Fisheries:</i>		
AK Kuskokwim, Yukon, Norton Sound, Kotzebue salmon gillnet	1,778	Harbor porpoise, Bering Sea.
AK Prince William Sound salmon set gillnet	29	Harbor seal, GOA. Sea otter, South central AK. Steller sea lion, Western U.S.
AK roe herring and food/bait herring gillnet	920	None documented.
CA set gillnet (mesh size <3.5 in)	11	None documented.
HI inshore gillnet	29	Bottlenose dolphin, HI. Spinner dolphin, HI.
WA Grays Harbor salmon drift gillnet (excluding treaty Tribal fishing)	19	Harbor seal, OR/WA coast.
WA/OR Mainstem Columbia River eulachon gillnet	10	None documented.
WA/OR lower Columbia River (includes tributaries) drift gillnet	244	California sea lion, U.S. Harbor seal, OR/WA coast.
WA Willapa Bay drift gillnet	57	Harbor seal, OR/WA coast. Northern elephant seal, CA breeding.
<i>Miscellaneous Net Fisheries:</i>		
AK Cook Inlet salmon purse seine	83	Humpback whale, Central North Pacific.
AK Kodiak salmon purse seine	376	Dall's porpoise, AK. Harbor seal, North Kodiak. Humpback whale, Central North Pacific. Humpback whale, Western North Pacific. Steller sea lion, Western U.S.
AK Southeast salmon purse seine	315	Humpback whale, Central North Pacific.
AK roe herring and food/bait herring beach seine	10	None documented.

AK roe herring and food/bait herring purse seine	356	None documented.
AK salmon beach seine	31	None documented.
AK salmon purse seine (Prince William Sound, Chignik, Alaska Peninsula)	936	Harbor seal, GOA. Harbor seal, Prince William Sound.
WA/OR sardine purse seine	6	None documented.
CA anchovy, mackerel, sardine purse seine	53	California sea lion, U.S. Harbor seal, CA.
CA squid purse seine	68	California sea lion, U.S. Long-beaked common dolphin, CA. Risso's dolphin, CA/OR/WA. Short-beaked common dolphin, CA/OR/WA.
CA tuna purse seine *	14	None documented.
WA/OR Lower Columbia River salmon seine	1	None documented.
WA/OR herring, anchovy, smelt, squid purse seine or lampara	41	None documented.
WA salmon seine	81	None documented.
WA salmon reef net	11	None documented.
HI lift net	15	None documented.
HI inshore purse seine	None recorded	None documented.
HI throw net, cast net	15	None documented.
HI seine net	17	None documented.
<i>Dip Net Fisheries:</i>		
CA squid dip net	19	None documented.
<i>Marine Aquaculture Fisheries:</i>		
CA marine shellfish aquaculture	unknown	None documented.
CA salmon enhancement rearing pen	>1	None documented.
CA white seabass enhancement net pens	13	California sea lion, U.S.
HI offshore pen culture	1	Hawaiian monk seal.
WA salmon net pens	14	California sea lion, U.S. Harbor seal, WA inland waters.
WA/OR shellfish aquaculture	23	None documented.
<i>Troll Fisheries:</i>		
WA/OR/CA albacore surface hook and line/troll	556	None documented.

CA halibut, white seabass, and yellowtail hook and line/handline	388	None documented.
CA/OR/WA non-albacore HMS hook and line	124	None documented.
AK Bering Sea, Aleutian Islands groundfish hand troll and dinglebar troll	unknown	None documented.
AK Gulf of Alaska groundfish hand troll and dinglebar troll	unknown	None documented.
AK salmon troll	1,908	Steller sea lion, Eastern U.S. Steller sea lion, Western U.S.
American Samoa tuna troll	13	None documented.
CA/OR/WA salmon troll	1,030	None documented.
HI troll	1,380	Pantropical spotted dolphin, HI.
HI rod and reel	237	None documented.
Commonwealth of the Northern Mariana Islands tuna troll	40	None documented.
Guam tuna troll	398	None documented.
<i>Longline/Set Line Fisheries:</i>		
AK Bering Sea, Aleutian Islands Greenland turbot longline	4	Killer whale, GOA, AI, BS transient.
AK Bering Sea, Aleutian Islands Pacific cod longline	45	Northern fur seal, Eastern Pacific. Steller sea lion, Western U.S.
AK Bering Sea, Aleutian Islands sablefish longline	22	None documented.
AK Bering Sea, Aleutian Islands halibut longline	127	Northern fur seal, Eastern Pacific. Sperm whale, North Pacific.
AK Gulf of Alaska halibut longline	855	Harbor seal, Clarence Strait. Harbor seal, Cook Inlet. Steller sea lion, Eastern U.S.
AK Gulf of Alaska Pacific cod longline	92	Harbor seal, Cook Inlet/Shelikof Strait. Steller sea lion, Western U.S.
AK octopus/squid longline	3	None documented.
AK state-managed waters longline/setline (including sablefish, rockfish, lingcod, and miscellaneous finfish)	464	None documented.
WA/OR/CA groundfish, bottomfish longline/set line	314	Bottlenose dolphin, CA/OR/WA offshore. California sea lion, U.S. Northern elephant seal, California breeding. Sperm whale, CA/OR/WA. Steller sea lion, Eastern U.S.
WA/OR/CA Pacific halibut longline	130	None documented.
CA pelagic longline	4	None documented in the most recent 5 years of data.

HI kaka line	5	None documented.
HI vertical line	None recorded	None documented.
<i>Trawl Fisheries:</i>		
AK Bering Sea, Aleutian Islands Atka mackerel trawl	13	Harbor seal, Aleutian Islands. Northern elephant seal, California. Steller sea lion, Western U.S.
AK Bering Sea, Aleutian Islands Pacific cod trawl	72	Bearded seal, AK. Ribbon seal. Steller sea lion, Western U.S.
AK Bering Sea, Aleutian Islands rockfish trawl	17	Harbor seal, Aleutian Islands. Ribbon seal.
AK Gulf of Alaska flatfish trawl	36	Harbor seal, Cook Inlet/Shelikof Strait. Harbor seal, North Kodiak. Harbor seal, South Kodiak. Steller sea lion, Western U.S.
AK Gulf of Alaska Pacific cod trawl	55	Steller sea lion, Western U.S.
AK Gulf of Alaska pollock trawl	67	Steller sea lion, Western U.S.
AK Gulf of Alaska rockfish trawl	43	Steller sea lion, Western U.S.
AK Kodiak food/bait herring otter trawl	4	None documented.
AK shrimp otter trawl and beam trawl	38	None documented.
AK state-managed waters of Prince William Sound groundfish trawl	2	None documented.
CA halibut bottom trawl	23	California sea lion, U.S. Harbor porpoise, unknown. Harbor seal, unknown. Northern elephant seal, CA breeding. Steller sea lion, unknown.
CA sea cucumber trawl	11	None documented.
WA/OR/CA shrimp trawl	130	California sea lion, U.S.
WA/OR/CA groundfish trawl	118	California sea lion, U.S. Dall's porpoise, CA/OR/WA. Harbor seal, OR/WA coast. Northern elephant seal, CA breeding. Northern fur seal, Eastern Pacific. Northern right whale dolphin, CA/OR/WA. Pacific white-sided dolphin, CA/OR/WA. Steller sea lion, Eastern U.S.
<i>Pot, Ring Net, and Trap Fisheries:</i>		
AK Bering Sea, Aleutian Islands sablefish pot	6	Sperm whale, North Pacific.
AK Bering Sea, Aleutian Islands crab pot	540	Bowhead whale, Western Arctic. Gray whale, Eastern North Pacific.
AK Gulf of Alaska crab pot	271	None documented.
AK Gulf of Alaska Pacific cod pot	116	None documented in most recent 5 years of data.
AK Gulf of Alaska sablefish pot	248	None documented.

AK Southeast Alaska crab pot	375	Humpback whale, Central North Pacific (Southeast AK).
AK Southeast Alaska shrimp pot	99	Humpback whale, Central North Pacific (Southeast AK).
AK shrimp pot, except Southeast	141	None documented.
AK octopus/squid pot	15	None documented.
CA rock crab pot	113	Gray whale, Eastern North Pacific. Harbor seal, CA.
CA Tanner crab pot fishery	1	None documented.
WA/OR/CA hagfish pot	63	None documented.
WA/OR shrimp pot/trap	28	None documented.
WA Puget Sound Dungeness crab pot/trap	145	None documented.
HI crab trap	4	Humpback whale, Central North Pacific.
HI fish trap	4	None documented.
HI lobster trap	None recorded	None documented in recent years.
HI shrimp trap	3	None documented.
HI crab net	None recorded	None documented.
HI Kona crab loop net	20	None documented.
<i>Hook and Line, Handline, and Jig Fisheries:</i>		
AK Bering Sea, Aleutian Islands groundfish jig	2	None documented.
AK Gulf of Alaska groundfish jig	214	None documented in most recent 5 years of data.
AK halibut jig	71	None documented.
American Samoa bottomfish	9	None documented.
Commonwealth of the Northern Mariana Islands bottomfish	11	None documented.
Guam bottomfish	67	None documented.
HI aku boat, pole, and line	None recorded	None documented.
HI bottomfish handline	385	None documented in recent years.
HI inshore handline	206	None documented.
HI pelagic handline	300	None documented.
WA/OR/CA groundfish/finfish hook and line	689	California sea lion, U.S.
Western Pacific squid jig	0	None documented.

<i>Harpoon Fisheries:</i>		
CA swordfish harpoon	21	None documented.
<i>Pound Net/Weir Fisheries:</i>		
AK herring spawn on kelp pound net	291	None documented.
AK Southeast herring roe/food/bait pound net	2	None documented.
HI bullpen trap	None recorded	None documented.
<i>Bait Pens:</i>		
WA/OR/CA bait pens	13	California sea lion, U.S.
<i>Dredge Fisheries:</i>		
AK scallop dredge	108 (5 AK)	None documented.
<i>Dive, Hand/Mechanical Collection Fisheries:</i>		
AK clam	130	None documented.
AK Dungeness crab	2	None documented.
AK herring spawn on kelp	266	None documented.
AK miscellaneous invertebrates handpick	214	None documented.
CA/OR/WA dive collection	186	None documented.
CA/WA kelp, seaweed and algae	4	None documented.
HI black coral diving	None recorded	None documented.
HI fish pond	None recorded	None documented.
HI handpick	25	None documented.
HI lobster diving	12	None documented.
HI spearfishing	82	None documented.
WA/OR/CA hand/mechanical collection	320	None documented.
<i>Commercial Passenger Fishing Vessel (Charter Boat) Fisheries:</i>		
AK/WA/OR/CA commercial passenger fishing vessel	>7,000 (1,006 AK)	Humpback whale, Central North Pacific. Humpback whale, Western North Pacific. Killer whale, unknown. Steller sea lion, Eastern U.S. Steller sea lion, Western U.S.
<i>Live Finfish/Shellfish Fisheries:</i>		
CA nearshore finfish trap	93	None documented.
HI aquarium collecting	34	None documented.

List of Abbreviations and Symbols Used in Table 1:

AI - Aleutian Islands; AK - Alaska; BS - Bering Sea; CA - California; ENP - Eastern North Pacific; GOA - Gulf of Alaska; HI - Hawaii; MHI - Main Hawaiian Islands; OR - Oregon; WA - Washington;

¹ Fishery classified based on mortalities and serious injuries of this stock, which are greater than or equal to 50 percent (Category I) or greater than 1 percent and less than 50 percent (Category II) of the stock's PBR;

² Fishery classified by analogy;

* Fishery has an associated high seas component listed in Table 3; and

^ The list of marine mammal species and/or stocks killed or injured in this fishery is identical to the list of species and/or stocks killed or injured in high seas component of the fishery, minus species and/or stocks that have geographic ranges exclusively on the high seas. The species and/or stocks are found, and the fishery remains the same, on both sides of the EEZ boundary. Therefore, the EEZ components of these fisheries pose the same risk to marine mammals as the components operating on the high seas.

Table 2 -- List of Fisheries -- Commercial Fisheries in the Atlantic Ocean, Gulf of Mexico, and Caribbean

Fishery Description	Estimated Number of vessels/ persons	Marine mammal species and/or stocks incidentally killed or injured
CATEGORY I		
<i>Gillnet Fisheries:</i>		
Mid-Atlantic gillnet	4,020	Bottlenose dolphin, Northern Migratory coastal. Bottlenose dolphin, Southern Migratory coastal ¹ . Bottlenose dolphin, Northern NC estuarine system ¹ . Bottlenose dolphin, Southern NC estuarine system ¹ . Bottlenose dolphin, WNA offshore. Common dolphin, WNA. Gray seal, WNA. Harbor porpoise, GME/BF. Harbor seal, WNA. Hooded seal, WNA. Humpback whale, Gulf of Maine. Minke whale, Canadian east coast.
Northeast sink gillnet	4,072	Bottlenose dolphin, Northern Migratory coastal. Bottlenose dolphin, WNA offshore. Common dolphin, WNA. Fin whale, WNA. Gray seal, WNA ¹ . Harbor porpoise, GME/BF. Harbor seal, WNA. Harp seal, WNA. Humpback whale, Gulf of Maine. Minke whale, Canadian east coast. North Atlantic right whale, WNA. Risso's dolphin, WNA. White-sided dolphin, WNA.
<i>Trap/Pot Fisheries:</i>		
Northeast/Mid-Atlantic American lobster trap/pot	8,485	Humpback whale, Gulf of Maine. Minke whale, Canadian east coast. North Atlantic right whale, WNA ¹ .
<i>Longline Fisheries:</i>		

Atlantic Ocean, Caribbean, Gulf of Mexico large pelagics longline*	201	<p>Atlantic spotted dolphin, Northern GMX. Bottlenose dolphin, Northern GMX oceanic. Bottlenose dolphin, WNA offshore. Common dolphin, WNA. Cuvier's beaked whale, WNA. False killer whale, WNA. Harbor porpoise, GME, BF. Kogia spp. (Pygmy or dwarf sperm whale), WNA. Long-finned pilot whale, WNA. Mesoplodon beaked whale, WNA. Minke whale, Canadian East coast. Pantropical spotted dolphin, Northern GMX. Pygmy sperm whale, GMX. Risso's dolphin, Northern GMX. Risso's dolphin, WNA. Rough-toothed dolphin, Northern GMX. Short-finned pilot whale, Northern GMX. Short-finned pilot whale, WNA¹. Sperm whale, Northern GMX.</p>
CATEGORY II		
<i>Gillnet Fisheries:</i>		
Chesapeake Bay inshore gillnet ²	265	Bottlenose dolphin, unknown (Northern migratory coastal or Southern migratory coastal).
Gulf of Mexico gillnet ²	248	<p>Bottlenose dolphin, Eastern GMX coastal. Bottlenose dolphin, GMX bay, sound, and estuarine. Bottlenose dolphin, Mobile Bay, Bonsecour Bay. Bottlenose dolphin, Northern GMX coastal. Bottlenose dolphin, Western GMX coastal.</p>
NC inshore gillnet	2,676	<p>Bottlenose dolphin, Northern NC estuarine system¹. Bottlenose dolphin, Southern NC estuarine system¹.</p>
Northeast anchored float gillnet ²	852	<p>Harbor seal, WNA. Humpback whale, Gulf of Maine. White-sided dolphin, WNA.</p>
Northeast drift gillnet ²	1,036	None documented.
Southeast Atlantic gillnet ²	273	<p>Bottlenose dolphin, Central FL coastal. Bottlenose dolphin, Northern FL coastal. Bottlenose dolphin, SC/GA coastal. Bottlenose dolphin, Southern migratory coastal.</p>
Southeastern U.S. Atlantic shark gillnet	21	<p>Bottlenose dolphin, unknown (Central FL, Northern FL, SC/GA coastal, or Southern migratory coastal). North Atlantic right whale, WNA.</p>
<i>Trawl Fisheries:</i>		

Mid-Atlantic mid-water trawl (including pair trawl)	320	Bottlenose dolphin, WNA offshore. Harbor seal, WNA.
Mid-Atlantic bottom trawl	633	Bottlenose dolphin, WNA offshore ¹ . Common dolphin, WNA ¹ . Gray seal, WNA ¹ . Harbor seal, WNA. Risso's dolphin, WNA ¹ . White-sided dolphin, WNA.
Northeast mid-water trawl (including pair trawl)	542	Common dolphin, WNA. Gray seal, WNA. Harbor seal, WNA. Long-finned pilot whale, WNA ¹ .
Northeast bottom trawl	968	Bottlenose dolphin, WNA offshore ¹ . Common dolphin, WNA. Gray seal, WNA ¹ . Harbor porpoise, GME/BF. Harbor seal, WNA. Harp seal, WNA. Long-finned pilot whale, WNA ¹ . Risso's dolphin, WNA ¹ . White-sided dolphin, WNA ¹ .
Southeastern U.S. Atlantic, Gulf of Mexico shrimp trawl	10,824	Atlantic spotted dolphin, Northern Gulf of Mexico. Bottlenose dolphin, Charleston estuarine system. Bottlenose dolphin, Eastern GMX coastal ¹ . Bottlenose dolphin, GMX bay, sound, estuarine ¹ . Bottlenose dolphin, GMX continental shelf. Bottlenose dolphin, Mississippi River Delta. Bottlenose dolphin, Mobile Bay, Bonsecour Bay. Bottlenose dolphin, Northern GMX coastal ¹ . Bottlenose dolphin, Pensacola Bay, East Bay. Bottlenose dolphin, Perdido Bay. Bottlenose dolphin, SC/GA coastal ¹ . Bottlenose dolphin, Southern migratory coastal. Bottlenose dolphin, Western GMX coastal ¹ .
<i>Trap/Pot Fisheries:</i>		
MA mixed species trap/pot	1,240	None documented.
Southeastern U.S. Atlantic, Gulf of Mexico stone crab trap/pot ²	1,101	Bottlenose dolphin, Biscayne Bay estuarine. Bottlenose dolphin, Central FL coastal. Bottlenose dolphin, Eastern GMX coastal. Bottlenose dolphin, FL Bay. Bottlenose dolphin, GMX bay, sound, estuarine (FL west coast portion). Bottlenose dolphin, Indian River Lagoon estuarine system. Bottlenose dolphin, Jacksonville estuarine system. Bottlenose dolphin, Northern GMX coastal. Bottlenose dolphin, Sarasota Bay, Little Sarasota Bay.
Atlantic mixed species trap/pot ²	3,493	Fin whale, WNA.

		Humpback whale, Gulf of Maine.
Atlantic blue crab trap/pot	6,679	<p>Bottlenose dolphin, Central FL coastal.</p> <p>Bottlenose dolphin, Central GA estuarine system¹.</p> <p>Bottlenose dolphin, Charleston estuarine system¹.</p> <p>Bottlenose dolphin, Indian River Lagoon estuarine system.</p> <p>Bottlenose dolphin, Jacksonville estuarine system.</p> <p>Bottlenose dolphin, Northern FL coastal¹.</p> <p>Bottlenose dolphin, Northern GA/Southern SC estuarine system.</p> <p>Bottlenose dolphin, Northern Migratory coastal.</p> <p>Bottlenose dolphin, Northern NC estuarine system¹.</p> <p>Bottlenose dolphin, Northern SC estuarine system.</p> <p>Bottlenose dolphin, SC/GA coastal.</p> <p>Bottlenose dolphin, Southern GA estuarine system.</p> <p>Bottlenose dolphin, Southern Migratory coastal¹.</p> <p>Bottlenose dolphin, Southern NC estuarine system.</p> <p>West Indian manatee, FL.</p>
<i>Purse Seine Fisheries:</i>		
Gulf of Mexico menhaden purse seine	40-42	<p>Bottlenose dolphin, GMX bay, sound, estuarine.</p> <p>Bottlenose dolphin, Mississippi River Delta.</p> <p>Bottlenose dolphin, Mississippi Sound, Lake Borgne, Bay Boudreau.</p> <p>Bottlenose dolphin, Northern GMX coastal¹.</p> <p>Bottlenose dolphin, Western GMX coastal¹.</p>
Mid-Atlantic menhaden purse seine ²	17	<p>Bottlenose dolphin, Northern Migratory coastal.</p> <p>Bottlenose dolphin, Southern Migratory coastal.</p>
<i>Haul/Beach Seine Fisheries:</i>		
Mid-Atlantic haul/beach seine	359	<p>Bottlenose dolphin, Northern Migratory coastal¹.</p> <p>Bottlenose dolphin, Northern NC estuarine system¹.</p> <p>Bottlenose dolphin, Southern Migratory coastal¹.</p>
NC long haul seine	22	<p>Bottlenose dolphin, Northern NC estuarine system¹.</p> <p>Bottlenose dolphin, Southern NC estuarine system.</p>
<i>Stop Net Fisheries:</i>		
NC roe mullet stop net	1	<p>Bottlenose dolphin, Northern NC estuarine system.</p> <p>Bottlenose dolphin, unknown (Southern</p>

		migratory coastal or Southern NC estuarine system).
<i>Pound Net Fisheries:</i>		
VA pound net	20	Bottlenose dolphin, Northern migratory coastal. Bottlenose dolphin, Northern NC estuarine system. Bottlenose dolphin, Southern Migratory coastal ¹ .
CATEGORY III		
<i>Gillnet Fisheries:</i>		
Caribbean gillnet	127	None documented in the most recent 5 years of data.
DE River inshore gillnet	unknown	None documented in the most recent 5 years of data.
Long Island Sound inshore gillnet	unknown	None documented in the most recent 5 years of data.
RI, southern MA (to Monomoy Island), and NY Bight (Raritan and Lower NY Bays) inshore gillnet	unknown	None documented in the most recent 5 years of data.
Southeast Atlantic inshore gillnet	unknown	Bottlenose dolphin, Northern SC estuarine system.
<i>Trawl Fisheries:</i>		
Atlantic shellfish bottom trawl	>58	None documented.
Gulf of Mexico butterfish trawl	2	Bottlenose dolphin, Northern GMX oceanic. Bottlenose dolphin, Northern GMX continental shelf.
Gulf of Mexico mixed species trawl	20	None documented.
GA cannonball jellyfish trawl	1	Bottlenose dolphin, SC/GA coastal.
<i>Marine Aquaculture Fisheries:</i>		
Finfish aquaculture	48	Harbor seal, WNA.
Shellfish aquaculture	unknown	None documented.
<i>Purse Seine Fisheries:</i>		
Gulf of Maine Atlantic herring purse seine	>7	Harbor seal, WNA.
Gulf of Maine menhaden purse seine	>2	None documented.
FL West Coast sardine purse seine	10	Bottlenose dolphin, Eastern GMX coastal.
U.S. Atlantic tuna purse seine *	5	None documented in most recent 5 years of data.
<i>Longline/Hook and Line Fisheries:</i>		
Northeast/Mid-Atlantic bottom longline/hook-and-line	>1,207	None documented.

Gulf of Maine, U.S. Mid-Atlantic tuna, shark, swordfish hook-and-line/harpoon	2,846	Humpback whale, Gulf of Maine.
Southeastern U.S. Atlantic, Gulf of Mexico, and Caribbean snapper-grouper and other reef fish bottom longline/hook-and-line	>5,000	Bottlenose dolphin, GMX continental shelf.
Southeastern U.S. Atlantic, Gulf of Mexico shark bottom longline/hook-and-line	39	Bottlenose dolphin, Eastern GMX coastal. Bottlenose dolphin, Northern GMX continental shelf.
Southeastern U.S. Atlantic, Gulf of Mexico, and Caribbean pelagic hook-and-line/harpoon	680	None documented.
U.S. Atlantic, Gulf of Mexico trotline	unknown	None documented.
<i>Trap/Pot Fisheries:</i>		
Caribbean mixed species trap/pot	154	Bottlenose dolphin, Puerto Rico and United States Virgin Islands.
Caribbean spiny lobster trap/pot	40	None documented.
FL spiny lobster trap/pot	1,268	Bottlenose dolphin, Biscayne Bay estuarine. Bottlenose dolphin, Central FL coastal. Bottlenose dolphin, Eastern GMX coastal. Bottlenose dolphin, FL Bay estuarine. Bottlenose dolphin, FL Keys.
Gulf of Mexico blue crab trap/pot	4,113	Bottlenose dolphin, Barataria Bay. Bottlenose dolphin, Eastern GMX coastal. Bottlenose dolphin, GMX bay, sound, estuarine. Bottlenose dolphin, Mississippi Sound, Lake Borgne, Bay Boudreau. Bottlenose dolphin, Mobile Bay, Bonsecour Bay. Bottlenose dolphin, Northern GMX coastal. Bottlenose dolphin, Western GMX coastal. West Indian manatee, FL.
Gulf of Mexico mixed species trap/pot	unknown	None documented.
Southeastern U.S. Atlantic, Gulf of Mexico golden crab trap/pot	10	None documented.
U.S. Mid-Atlantic eel trap/pot	unknown	None documented.
<i>Stop Seine/Weir/Pound Net/Floating Trap/Fyke Net Fisheries:</i>		
Gulf of Maine herring and Atlantic mackerel stop seine/weir	>1	Harbor porpoise, GME/BF. Harbor seal, WNA. Minke whale, Canadian east coast. Atlantic white-sided dolphin, WNA.
U.S. Mid-Atlantic crab stop seine/weir	2,600	None documented.

U.S. Mid-Atlantic mixed species stop seine/weir/pound net (except the NC roe mullet stop net)	unknown	Bottlenose dolphin, Northern NC estuarine system.
RI floating trap	9	None documented.
Northeast and Mid-Atlantic fyke net	unknown	None documented.
<i>Dredge Fisheries:</i>		
Gulf of Maine sea urchin dredge	unknown	None documented.
Gulf of Maine mussel dredge	unknown	None documented.
Gulf of Maine, U.S. Mid-Atlantic sea scallop dredge	>403	None documented.
Mid-Atlantic blue crab dredge	unknown	None documented.
Mid-Atlantic soft-shell clam dredge	unknown	None documented.
Mid-Atlantic whelk dredge	unknown	None documented.
U.S. Mid-Atlantic/Gulf of Mexico oyster dredge	7,000	None documented.
New England and Mid-Atlantic offshore surf clam/quahog dredge	unknown	None documented.
<i>Haul/Beach Seine Fisheries:</i>		
Caribbean haul/beach seine	38	West Indian manatee, Puerto Rico.
Gulf of Mexico haul/beach seine	unknown	None documented.
Southeastern U.S. Atlantic haul/beach seine	25	None documented.
<i>Dive, Hand/Mechanical Collection Fisheries:</i>		
Atlantic Ocean, Gulf of Mexico, Caribbean shellfish dive, hand/mechanical collection	20,000	None documented.
Gulf of Maine urchin dive, hand/mechanical collection	unknown	None documented.
Gulf of Mexico, Southeast Atlantic, Mid-Atlantic, and Caribbean cast net	unknown	None documented.
<i>Commercial Passenger Fishing Vessel (Charter Boat) Fisheries:</i>		
Atlantic Ocean, Gulf of Mexico, Caribbean commercial passenger fishing vessel	4,000	Bottlenose dolphin, Barataria Bay estuarine system. Bottlenose dolphin, Biscayne Bay estuarine. Bottlenose dolphin, Central FL coastal. Bottlenose dolphin, Choctawhatchee Bay. Bottlenose dolphin, Eastern GMX coastal. Bottlenose dolphin, FL Bay. Bottlenose dolphin, GMX bay, sound, estuarine.

		Bottlenose dolphin, Indian River Lagoon estuarine system. Bottlenose dolphin, Jacksonville estuarine system. Bottlenose dolphin, Mississippi Sound, Lake Borgne, Bay Boudreau. Bottlenose dolphin, Northern FL coastal. Bottlenose dolphin, Northern GA/Southern SC estuarine. Bottlenose dolphin, Northern GMX coastal. Bottlenose dolphin, Northern migratory coastal. Bottlenose dolphin, Northern NC estuarine. Bottlenose dolphin, Southern migratory coastal. Bottlenose dolphin, Southern NC estuarine system. Bottlenose dolphin, SC/GA coastal. Bottlenose dolphin, Western GMX coastal. Short-finned pilot whale, WNA.
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List of Abbreviations and Symbols Used in Table 2:

DE - Delaware; FL - Florida; GA - Georgia; GME/BF - Gulf of Maine/Bay of Fundy; GMX - Gulf of Mexico; MA - Massachusetts; NC - North Carolina; NY - New York; RI - Rhode Island; SC- South Carolina; VA - Virginia; WNA - Western North Atlantic;

¹ Fishery classified based on mortalities and serious injuries of this stock, which are greater than or equal to 50 percent (Category I) or greater than 1 percent and less than 50 percent (Category II) of the stock's PBR;

² Fishery classified by analogy; and

* Fishery has an associated high seas component listed in Table 3.

Table 3 -- List of Fisheries -- Commercial Fisheries on the High Seas

Fishery Description	Number of HSFCA permits	Marine mammal species and/or stocks incidentally killed or injured
CATEGORY I		
<i>Longline Fisheries:</i>		
Atlantic Highly Migratory Species *	39	Atlantic spotted dolphin, WNA. Bottlenose dolphin, Northern GMX oceanic. Bottlenose dolphin, WNA offshore. Common dolphin, WNA. Cuvier's beaked whale, WNA. False killer whale, WNA. Killer whale, GMX oceanic. Kogia spp. whale (Pygmy or dwarf sperm whale), WNA. Long-finned pilot whale, WNA. Mesoplodon beaked whale, WNA. Minke whale, Canadian East coast. Pantropical spotted dolphin, WNA. Risso's dolphin, GMX. Risso's dolphin, WNA. Short-finned pilot whale, WNA.
Western Pacific Pelagic (HI Deep-set component) * ^	143	Bottlenose dolphin, HI Pelagic. False killer whale, HI Pelagic. Humpback whale, Central North Pacific. Kogia spp. (Pygmy or dwarf sperm whale), HI. Risso's dolphin, HI. Short-finned pilot whale, HI. Striped dolphin, HI.
CATEGORY II		
<i>Drift Gillnet Fisheries:</i>		
Pacific Highly Migratory Species * ^	5	Long-beaked common dolphin, CA. Humpback whale, CA/OR/WA. Northern right-whale dolphin, CA/OR/WA. Pacific white-sided dolphin, CA/OR/WA. Risso's dolphin, CA/OR/WA. Short-beaked common dolphin, CA/OR/WA.
<i>Trawl Fisheries:</i>		
Atlantic Highly Migratory Species **	1	No information.
CCAMLR	0	Antarctic fur seal.
<i>Purse Seine Fisheries:</i>		

Western and Central Pacific Ocean Tuna Purse Seine	20	Bottlenose dolphin, HI Pelagic. Blue whale, unknown. Bryde's whale, HI. False killer whale, HI Pelagic. Fin whale, HI. Humpback whale, unknown. Indo-Pacific dolphin. Long-beaked common dolphin, CA. Melon-headed whale, unknown. Minke whale, HI. Pantropical spotted dolphin, unknown. Pygmy killer whale, HI. Risso's dolphin, unknown. Rough-toothed dolphin, unknown. Sei whale, HI. Short-finned pilot whale, unknown. Sperm whale, HI. Spinner dolphin, unknown.
Western Pacific Pelagic	1	No information.
<i>Longline Fisheries:</i>		
CCAMLR	0	None documented.
South Pacific Albacore Troll	6	No information.
Western Pacific Pelagic (HI Shallow-set component) * ^	11	Bottlenose dolphin, HI Pelagic. False killer whale, HI Pelagic. Fin whale, HI. Ginkgo-toothed beaked whale. Guadalupe fur seal. Humpback whale, Central North Pacific. Northern elephant seal, CA breeding. Risso's dolphin, HI. Short-beaked common dolphin, CA/OR/WA. Striped dolphin, HI.
<i>Handline/Pole and Line Fisheries:</i>		
Atlantic Highly Migratory Species	1	No information.
Pacific Highly Migratory Species	44	No information.
South Pacific Albacore Troll	9	No information.
Western Pacific Pelagic	5	No information.
<i>Troll Fisheries:</i>		
Atlantic Highly Migratory Species	0	No information.
South Pacific Albacore Troll	20	No information.
South Pacific Tuna Fisheries **	0	No information.
Western Pacific Pelagic	6	No information.
CATEGORY III		
<i>Longline Fisheries:</i>		
Northwest Atlantic Bottom Longline	2	None documented.
Pacific Highly Migratory Species	111	None documented in the most recent 5 years of data.
<i>Purse Seine Fisheries:</i>		

Pacific Highly Migratory Species * ^	5	None documented.
<i>Trawl Fisheries:</i>		
Northwest Atlantic	4	None documented.
<i>Troll Fisheries:</i>		
Pacific Highly Migratory Species *	107	None documented.

List of Terms, Abbreviations, and Symbols Used in Table 3:

CA - California; GMX- Gulf of Mexico; HI - Hawaii; OR - Oregon; WA - Washington; WNA - Western North Atlantic;

* Fishery is an extension/component of an existing fishery operating within U.S. waters listed in Table 1 or 2. The number of permits listed in Table 3 represents only the number of permits for the high seas component of the fishery;

** These gear types are not authorized under the Pacific HMS FMP (2004), the Atlantic HMS FMP (2006), or without a South Pacific Tuna Treaty license (in the case of the South Pacific Tuna fisheries). Because HSFCA permits are valid for 5 years, permits obtained in past years exist in the HSFCA permit database for gear types that are now unauthorized. Therefore, while HSFCA permits exist for these gear types, it does not represent effort. In order to land fish species, fishers must be using an authorized gear type. Once these permits for unauthorized gear types expire, the permit-holder will be required to obtain a permit for an authorized gear type; and

^ The list of marine mammal species and/or stocks killed or injured in this fishery is identical to the list of marine mammal species and/or stocks killed or injured in U.S. waters component of the fishery, minus species and/or stocks that have geographic ranges exclusively in coastal waters, because the marine mammal species and/or stocks are also found on the high seas and the fishery remains the same on both sides of the EEZ boundary. Therefore, the high seas components of these fisheries pose the same risk to marine mammals as the components of these fisheries operating in U.S. waters.

Table 4 -- Fisheries Affected by Take Reduction Teams and Plans

Take Reduction Plans	Affected Fisheries
Atlantic Large Whale Take Reduction Plan (ALWTRP) – 50 CFR 229.32	<i>Category I</i> Mid-Atlantic gillnet Northeast/Mid-Atlantic American lobster trap/pot Northeast sink gillnet <i>Category II</i> Atlantic blue crab trap/pot Atlantic mixed species trap/pot MA mixed species trap/pot Northeast anchored float gillnet Northeast drift gillnet Southeast Atlantic gillnet Southeastern U.S. Atlantic shark gillnet* Southeastern, U.S. Atlantic, Gulf of Mexico stone crab trap/pot ^
Bottlenose Dolphin Take Reduction Plan (BDTRP) – 50 CFR 229.35	<i>Category I</i> Mid-Atlantic gillnet <i>Category II</i> Atlantic blue crab trap/pot Chesapeake Bay inshore gillnet fishery Mid-Atlantic haul/beach seine Mid-Atlantic menhaden purse seine NC inshore gillnet NC long haul seine NC roe mullet stop net Southeast Atlantic gillnet Southeastern U.S. Atlantic shark gillnet Southeastern U.S. Atlantic, Gulf of Mexico shrimp trawl^ Southeastern, U.S. Atlantic, Gulf of Mexico stone crab trap/pot^ VA pound net
False Killer Whale Take Reduction Plan (FKWTRP) – 50 CFR 229.37	<i>Category I</i> HI deep-set longline <i>Category II</i> HI shallow-set longline
Harbor Porpoise Take Reduction Plan (HPTRP) – 50 CFR 229.33 (New England) and 229.34 (Mid-Atlantic)	<i>Category I</i> Mid-Atlantic gillnet Northeast sink gillnet
Pelagic Longline Take Reduction Plan (PLTRP) – 50 CFR 229.36	<i>Category I</i> Atlantic Ocean, Caribbean, Gulf of Mexico large pelagics longline
Pacific Offshore Cetacean Take Reduction Plan (POCTRP) – 50 CFR 229.31	<i>Category II</i> CA thresher shark/swordfish drift gillnet (≥14 in mesh)
Atlantic Trawl Gear Take Reduction Team (ATGTRT)	<i>Category II</i> Mid-Atlantic bottom trawl Mid-Atlantic mid-water trawl (including pair trawl) Northeast bottom trawl Northeast mid-water trawl (including pair trawl)

List of Symbols Used in Table 4:

* Only applicable to the portion of the fishery operating in U.S. waters; and

^ Only applicable to the portion of the fishery operating in the Atlantic Ocean.

Classification

The Chief Counsel for Regulation of the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration (SBA) that this rule would not have a significant economic impact on a substantial number of small entities. No comments were received on that certification, and no new information has been discovered to change that conclusion. Accordingly, no regulatory flexibility analysis is required, and none has been prepared.

This rule contains existing collection-of-information (COI) requirements subject to the Paperwork Reduction Act and would not impose additional or new COI requirements. The COI for the registration of individuals under the MMPA has been approved by the OMB under OMB Control Number 0648-0293 (0.15 hours per report for new registrants). The requirement for reporting marine mammal mortalities or injuries has been approved by OMB under OMB Control Number 0648-0292 (0.15 hours per report). These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the COI. Send comments regarding these reporting burden estimates or any other aspect of the COI, including suggestions for reducing burden, to NMFS (see **ADDRESSES**). You may also submit comments on these or any other aspects of the collection of information at www.reginfo.gov/public/do/PRAMain.

Notwithstanding any other provision of law, no person is required to respond to, nor shall a person be subject to a penalty for failure to comply with a COI, subject to the requirements of the Paperwork Reduction Act, unless that COI displays a currently valid OMB control number.

This rule has been determined to be not significant for the purposes of Executive Orders 12866 and 13563.

In accordance with the Companion Manual for NOAA Administrative Order (NAO) 216–6A, NMFS determined that publishing this LOF qualifies to be categorically excluded from further NEPA review, consistent with categories of activities identified in Categorical Exclusion G7 (“Preparation of policy directives, rules, regulations, and guidelines of an administrative, financial, legal, technical, or procedural nature, or for which the environmental effects are too broad, speculative or conjectural to lend themselves to meaningful analysis and will be subject later to the NEPA process, either collectively or on a case-by-case basis”) of the Companion Manual and we have not identified any extraordinary circumstances listed in Chapter 4 of the Companion Manual for NAO 216-6A that would preclude application of this categorical exclusion. If NMFS takes a management action, for example, through the development of a TRP, NMFS would first prepare an Environmental Impact Statement or Environmental Assessment, as required under NEPA, specific to that action.

This rule would not affect species listed as threatened or endangered under the ESA or their associated critical habitat. The impacts of numerous fisheries have been analyzed in various biological opinions, and this rule will not affect the conclusions of those opinions. The classification of fisheries on the LOF is not considered to be a management action that would adversely affect threatened or endangered species. If NMFS takes a management action, for example, through the development of a TRP, NMFS would consult under ESA section 7 on that action.

This rule would have no adverse impacts on marine mammals and may have a positive impact on marine mammals by improving knowledge of marine mammals and the fisheries interacting with marine mammals through information collected from observer programs, stranding and sighting data, or take reduction teams.

This rule would not affect the land or water uses or natural resources of the coastal zone, as specified under section 307 of the Coastal Zone Management Act.

References

- Baird, R.W. 2016. The lives of Hawai'i's dolphins and whales: natural history and conservation. University of Hawai'i Press, Honolulu.
- Baird, R.W., and D.L. Webster. 2020. Using dolphins to catch tuna: Assessment of associations between pantropical spotted dolphins and yellowfin tuna hook and line fisheries in Hawai'i. *Fisheries Research*. 230. (2020):105652.
- Carretta, J.V., E. Oleson, K.A. Forney, J. Baker, J.E. Moore, D.W. Weller, A.R. Lang, M.M. Muto, B. Hanson, A.J. Orr, H. Huber, M.S. Lowry, J. Barlow, D. Lynch, L. Carswell, and R.L. Brownell Jr. 2021. U.S. Pacific Marine Mammal Stock Assessments: 2020. U.S. Department of Commerce, NOAA Technical Memorandum NMFS-SWFSC-646. 394 p.
- Muto, M.M., V.T. Helker, B.J. Delean, N.C. Young, J.C. Freed R.P. Angliss, P.L. Boveng, J.M. Breiwick, B.M. Brost, M.F. Cameron, P.J. Clapham, J.L. Crance, S.P. Dahle, M.E. Dahlheim, B.S. Fadely, M.C. Ferguson, L.W. Fritz, K.T. Goetz, R.C. Hobbs, Y.V. Ivashchenko, A.S. Kennedy, J.M. London, S.A. Mizroch, R.R. Ream, E.L. Richmond, K.E.W. Sheldon, K.L. Sweeney, R.G. Towell, P.R. Wade, J.M. Waite, and Alexandre N. Zerbini. 2021. Alaska Marine Mammal Stock Assessments 2020. U.S. Department of Commerce, NOAA Tech. Memo. NMFS-AFSC-421. 398 p.
- National Marine Fisheries Service (NMFS). 2020. National Marine Fisheries Service Procedure 02-204-02: Criteria for Determining Negligible Impact under MMPA Section 101(a)(5)(E). 20 p. Available online: <https://www.fisheries.noaa.gov/national/laws-and-policies/protected-resources-policy-directives>.

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